Monday
3rd May, 1954

सत्यमेव जयते

PARLIAMENTARY DEBATES

HOUSE OF THE PEOPLE

OFFICIAL REPORT

(Part I- Questions and Answers)

VOLUME I, 1954

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THE
PARLIAMENTARY DEBATES
(Part I—Questions and Answers)
OFFICIAL REPORT

Date: 01.12.2014

HOUSE OF THE PEOPLE

Monday, 3rd May, 1954

The House met at a Quarter Past Eight of the Clock.

[MR. SPEAKER *in the Chair*]

ORAL ANSWERS TO QUESTIONS

INTERNATIONAL MONETARY FUND

*2180. **Sardar Hukam Singh:** Will the Minister of **Finance** be pleased to state:

(a) whether it is a fact that India has been allowed to continue restrictions on payments for current international transactions beyond five years after the Monetary Fund started operation; and

(b) whether "the annual consultation" is purely formal?

The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat): (a) Yes, Sir.

(b) No, Sir. During the course of these consultations the entire economy of the member country passes under the review of the Fund in order that it may satisfy itself that the maintenance of the exchange restrictions is justified. As a result of this review the Fund may recommend modifications in the existing restrictions to the member-country and such recommendations are binding on the member-country concerned.

Sardar Hukam Singh: May I know whether all member-countries of this International Monetary Fund are having these exchange control restrictions or there are any who have none?

Shri B. R. Bhagat: I do not know whether the restrictions are there in all the member-countries. According to the sections in the agreement, the restrictions were allowed to continue for five years from 1947 when the International Monetary Fund started operations and after that a review has to take place in individual cases.

Sardar Hukam Singh: May I know whether there were any other member-countries as well which asked for extention on the expiry of the period of the agreement on the 1st of March?

Shri B. R. Bhagat: I have no information on that point.

Sardar Hukam Singh: The previous agreement expired on 1st March 1952. We got an extension as laid down under Article 14 for one year. But the approval was given in November. Does this extension now expire in November or has it already expired in March?

Shri B. R. Bhagat: The first consultations with the Fund commenced in July 1952, and the Fund's concurrence was obtained in October 1952. The second consultations were held in July 1953 and the Fund's concurrence was again obtained in November 1953.

ALLOTMENTS FROM AMERICAN LOAN FUND

*2181. **Shri S. N. Das:** Will the Minister of **Finance** be pleased to state:

(a) the extent to which and the amounts for which allotments have been made out of the American loan fund for various purposes during 1953; and

(b) the number and nature of cases which are under consideration?

The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat): (a) It is presumed that the hon. Member has in mind the financial year 1953-54. A statement giving the required information in respect of allotments to various States made out of the sale proceeds of wheat purchased from the American Loan during the financial year 1953-54 is placed on the Table. [*See* Appendix IX, annexure No. 30.]

(b) Within the ceilings for Central assistance to the States each year on schemes approved by the Planning Commission medium term loans are met from the fund created out of the sale proceeds of American loan wheat. There is no question of any cases for assistance from the Fund coming up as such.

Shri S. N. Das: What is the quantity of foodgrains receipts from which are yet to be credited to this fund?

Shri B. R. Bhagat: If the hon. Member means that....

Shri S. N. Das: I want to know the quantity of foodgrains, the sale proceeds of which are still to be credited to this fund.

Shri B. R. Bhagat: The special development fund created out of the sale proceeds of the American wheat loan was Rs. 90·47 crores and after making allocation for the capital loss because of under-selling or selling at a lower rate, the special fund comes down to Rs. 73·32 crores. That is the fund. There is no outstanding so far as this particular wheat loan is concerned.

Shri S. N. Das: In view of the fact that medium-term loans for schemes are granted from the fund created out of the sale proceeds of foodgrains, I wanted to know the quantity of foodgrains the price of which is still to be credited to this fund. I would like to know whether it is a fact that the members of the steering committee which was appointed for the formation of the Indian Development Corporation had received an assurance from the United State authorities that this fund will be utilised for financing the Indian Development Corporation.

Shri B. R. Bhagat: No, Sir.

Shri K. C. Sodhia: What was the original amount of the loan and what is the amount in terms of rupees?

Shri B. R. Bhagat: The original loan was 190 million dollars and the rupee counterpart is Rs. 73·32 crores.

Dr. Ram Subhag Singh: Is it proposed during this year to advance money from the sale proceeds of this American wheat loan fund to any university, particularly to any Central university, to establish libraries, etc. in the university areas?

Shri B. R. Bhagat: A statement is given.

Dr. Ram Subhag Singh: That is for 1953-54.

Shri B. R. Bhagat: From this statement, I think there is no such scheme for any university. It is mainly for irrigation and power schemes and other developmental work under the Plan. I think there is none for the university.

Shri Punnoose: An amount of Rs. 225 lakhs is allotted to Travancore-Cochin for irrigation and power projects. Can I have a break-up of this allotment to various purposes?

Shri B. R. Bhagat: I have not got the detailed figures.

ANDAMAN ISLANDS

*2182. **Shri S. C. Samanta:** Will the Minister of **Home Affairs** be pleased to state:

(a) what steps have been taken by Government towards the improvement of livestock and re-organisation of the dairy farm in the Andaman Islands;

(b) how many cattle were sent to Andamans in 1953 and how many are proposed to be sent in 1954;

(c) the varieties of the breed of cattle sent or to be sent; and

(d) how much additional staff has been appointed for the purpose?

The Deputy Minister of Home Affairs (Shri Datar): (a) A post of Live-stock Officer was created in 1952 and an officer appointed there to in August 1952. Stud bulls are stationed in the Dairy Farm for the benefit of the surrounding villages. The old stock of the Dairy Farm has been considerably weeded out by disposal of uneconomic animals. The supply of green fodder to the Dairy Farm has been improved by growing napier grass in the land attached to the Farm. Purchase of some new buffaloes in January 1954 was arranged on the lines recommended by Sardar Datar Singh and Dr. Kothavalla. Legislation to improve the local breeds by castration of useless animals is under active consideration.

(b) During 1953—Nil.

In January 1954, 14 Murrah buffaloes and 1 Murrah buffaloe bull were imported in the manner recommended by Sardar Datar Singh and Dr. Kothavalla. It is further proposed to obtain a few Sindhi cows and a few more Murrah buffaloes

(c) Murrah and Sindhi breeds of buffaloes and cows.

(d) Nil.

Shri S. C. Samanta: How many cattle have been demanded by the Commissioner for 1954-55?

Shri Datar: I have not got the actual figures but all his demands have been met.

Shri S. C. Samanta: Is it not a fact that the climatic conditions in Andamans are akin to the climatic conditions of coastal areas, and if so, may I know whether the Government have sent these cattle from coastal areas or hilly areas?

Shri Datar: What the hon. Member has said in the first part of his question is fairly correct. Government are sending out such bulls as could carry on well in these islands.

Shri S. C. Samanta: May I know, apart from supplying the breeds in the above manner, whether arrangements have been made to supply cattle to individuals living there?

Shri Datar: Supplies can be made; in fact, supplies are had by the individuals themselves with the consent of the Government.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

***2183. Shri Bansal:** Will the Minister of Finance be pleased to state the amount that has been actually utilised from the total amount of loans so far sanctioned by the International Bank for Reconstruction and Development to India?

The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat): The total amount utilised till the 31st March, 1954, upto which date figures are available, is about $54·7 million.

Shri Bansal: May I know which are the specific loans in which the shortfall actually occurred?

Shri B. R. Bhagat: The shortfall is only with respect of Bokaro-Konar loan. The original amount of loan was $18·5 million and the amount withdrawn is $14·7 million. As regards the steel project loan and the second D.V.C. loan, they have not yet been drawn, as the loans have not yet started.

Shri Bansal: According to a statment made by the hon. Finance Minister during the course of his Budget speech, he stated that a mission of some senior officials had gone to Washington in connection with certain other loans for the Trombay and Koyna multi-purpose project. May I know if any of these loans have been sanctioned?

Shri B. R. Bhagat: These loans for Trombay and Koyna as also the new State plant loan are still under the scrutiny and study of the International Bank.

Shri Bansal: May I know the position about the loan to the Industrial Finance Corporation?

Shri B. R. Bhagat: The loan of $8 million negotiated for the Industrial Finance Corporation has been given up.

Shri Raghuramaiah: May I know whether there is any truth in the reports published in some of the papers and referred to in the British House of Commons, that one of the conditions prescribed by the International Bank for the advance of loan to India is the acceptance by India of the principle of private enterprise in the industries affected?

Shri B. R. Bhagat: I am not aware of that report but the principle of private enterprise is stipulated in the mixed economy that we have.

UNTOUCHABILITY

*2184. **Shri N. Rachiah:** (a) Will the Minister of **Home Affairs** be pleased to state the amount given to the Mysore Government for removal of untouchability in the State during 1953-54?

(b) What are the main features of the schemes submitted by the State Government for the purpose?

The Deputy Minister of Home Affairs (Shri Datar): (a) Rs. 1,62,500.

(b) Attention is invited to the statement laid on the Table of the House in reply to Starred Question No. 573, by Shri Dodda Thimmaiah, answered on the 2nd March 1954.

Shri N. Rachiah: As far as item (i) of the statement is concerned, it is stated that Rs. 37,500 have been allotted for the construction of wells in the Mysore State. May I know whether this amount has been spent for the wells separately constructed for Harijans or the wells constructed for the whole population of the concerned villages?

Shri Datar: I have not got the particular details which the hon. Member has in view, but this amount is given for the construction of wells for the use of Harijans.

Shri N. Rachiah: According to the statement given, about Rs. 12,500 have been spent on publicity with regard to removal of untouchability. May I know whether it is a fact that one Scheduled Caste member who is running a paper called '*Panchajanya*' applied for grants towards working for the uplift of the Harijans and the Mysore Government have not considered that request?

Mr. Speaker: Order, order. No question may be put in support of an individual's request.

Shri Thimmaiah: Has the Government ascertained as to what extent untouchability prevails in the country and to what extent it has been removed by the efforts of the Government?

Shri Datar: Government are aware that untouchability has been prevailing to a large extent and attempts are being made on an organised scale to combat it.

श्री गणपति राम : क्या में जान सकता हूं कि जिन राज्य सरकारों को अस्पृश्यता निवारण के लिए रुपया दिया गया है, उन्होंने अपनी स्कीम्स सेंट्रल गवर्नमेंट के पास भेज दी हैं ?

Shri Datar: That is the underlying principle. A certain amount is fixed for which they have to submit schemes; then the schemes are sanctioned and the money is given.

श्री गणपति राम : क्या मंत्री महोदय को मालूम है...........

Mr. Speaker: Order, order.

Shri Punnoose: Am I to understand from the reply of the Minister that untouchability is being fought by digging separate wells for Harijans?

Shri Datar: That is an important question. We have to provide facilities for the Harijans also and this is one of the most important facilities that has to be given.

श्री गणपति राम : क्या गवर्नमेंट को मालूम है ....

Mr. Speaker: Order, order. I am going to the next Question. The hon. Member need not proceed.

TOBACCO EXCISE

*2185. **Dr. Natabar Pandey:** Will the Minister of **Finance** be pleased to state:

(a) the number of Inspectors and Superintendents who are engaged exclusively in tobacco excise of the Central Excise Department in Orissa;

(b) the annual expenditure on this staff; and

(c) the annual income from tobacco excise in Orissa?

The Deputy Minister of Finance (Shri A. C. Guha): (a) Eighty five Inspectors of Central Excise are engaged exclusively on Tobacco Excise work in the Central Excise Department in Orissa. Four Superintendents of Central Excise are also employed for the supervision of Central Excise work in the State, but no Superintendent is engaged exclusively in Tobacco Excise work only. The Superintendents are looking after the work connected with other Union Excises as well.

(b) The total expenditure on the eighty-five Inspectors of Central Excise who are engaged exclusively on Tobacco Excise work and on the proportionate cost on the four Superintendents of Central Excise who are common for all Central Excise commodities was roughly Rs. 2,40,850.

(c) The net income from tobacco Excise in Orissa during the year 1953-54 amounted to Rs. 23,28,837. This figure is, however, provisional since the accounts for the year have not yet been finalised.

Dr. Natabar Pandey: In view of the fact that no exemption is given to small-scale producers, and the poor cultivators are harassed by the Excise Department, do Government propose to allow any exemption?

Shri A. C. Guha: I think—subject to correction—in Orissa, small cultivators are exempted. Moreover, cultivators who are growing tobacco only for their own family consumption are also exempted from the excise duty.

Shri Ramachandra Reddi: May I know whether the practice of assessing tobacco on the standing crop itself is still continuing, or whether the method of assessing on the actual crop cut and dried is being followed in Orissa now?

Shri A. C. Guha: Generally, the excise duty is assessed on the actual production of tobacco, but only the preliminary estimate of crop is made on the area cultivated or on the number of plants cultivated; finally the assessment is based on the total amount grown in the field.

सरदार ए० एस० सहगल : क्या मैं यह जान सकता हूं कि जो काश्तकार घर के उपयोग के लिए तमाकू पैदा करता है उस पर तमाकू का टैक्स लगाया जाता है ? क्या यह बात सच है ?

Mr. Speaker: He has already replied to that question.

Pandit D. N. Tiwary: The hon. Minister has replied that exemption is made in the State of Orissa. May I know whether to other States this exemption is not given?

Shri A. C. Guha: More or less the same principle is being applied to other States; but Orissa is generally a sparsely cultivated area and also there are some hilly areas where tobacco is grown in a very small quantity; therefore it is not the interest of the State to assess duty in such cases.

INDUSTRIAL LOANS

*2186. **Shri Morarka:** Will the Minister of **Finance** be pleased to state:

(a) whether the attention of Government has been drawn to the recommendation contained in the Report of the International Monetary Fund Mission recommending that the Industrial Finance Corporation should collaborate with the banks in granting industrial loans; and

(b) if so, what action Government propose to take on this recommendation?

The Deputy Minister of Finance (Shri A. C. Guha): (a) Yes.

(b) The matter has been under consideration. Government is also awaiting in this connection the report of the Shroff Committee which was appointed by the Reserve Bank of India with the approval of Government to examine, among other things, the possibility of providing bank finance for development in the private sector.

Shri Morarka: May I know whether Government has in this connection invited the views of the Reserve Bank and the Industrial Finance Corporation?

Shri A. C. Guha: Yes, Sir. The Industrial Finance Corporation has already contacted the commercial banks to see what can be done in this matter, particularly in the matter of debentures to be taken up by the Industrial Finance Corporation.

Shri Morarka: My question was, whether the Government has consulted the Reserve Bank and the Industrial Finance Corporation in this connection, and if so, what are the views expressed by them about providing industrial finance in this country?

Shri A. C. Guha: As for the Reserve Bank, I have already stated that the Reserve Bank and the Government are waiting for the publication of the Shroff Committee's report. Until that is published it is not possible for Government to take any action. However, I would like to state that in this report there is no commitment for the Government. The International Bank in a sort of routine work sent their man for studying the economic position of the country, and he submitted a report. Of course, the Government is sure to give due consideration to this report.

Shri Morarka: May I know whether the Government accept in principle that these loans by the commercial banks may be guaranteed by the Industrial Finance Corporation?

Shri A. C. Guha: It is rather too early to say. I can only refer to the Shroff Committee report that the Government recognise the paucity of industrial finance and that is why they have started the Shroff Committee investigation.

Shri T. S. A. Chettiar: May I know if the loan asked for on behalf of the Industrial Finance Corporation from the International Monetary Fund has been dropped and if so, may I know the reasons?

Shri A. C. Guha: It is another sphere altogether. I can say that the proposal has not been processed further. The Industrial Finance Corporation has got sufficient funds. If and when there would be necessity, the proposal would be pursued. That proposal has not been processed any further.

Shri T. K. Chaudhuri: The hon. Minister referred to the fact that consultations were being held with the commercial banks. May I know if their definite views have been obtained?

Shri A. C. Guha: I have not stated that consultations were being held. I have only stated that the Industrial Finance Corporation has contacted some of the commercial banks. I think that the reaction of the commercial banks as regards debentures to be taken up by the Industrial Finance Corporation may be considered to be favourable.

QUALIFICATION PAY IN THE AIR FORCE

***2188. Shri Sadhan Gupta:** Will the Minister of **Defence** be pleased to state:

(a) whether there is any system of granting qualification pay in the Air Force;

(b) for what qualifications such pay is admissible;

(c) the amount of such pay; and

(d) whether officers and other ranks are eligible for the same?

The Deputy Minister of Defence (Sardar Majithia): (a) Yes, Sir.

(b) A statement is laid on the Table of the House. [*See* Appendix IX, annexure No. 31.]

(c) Qualification pay is granted at the rate of Rs. 75 p.m. for the higher specified qualifications, and at Rs. 50 p.m. for the lower qualifications.

(d) Qualification pay is admissible to officers only.

Shri Sadhan Gupta: May I know whether the reason for granting qualification pay is the recognition of the fact that higher qualifications should be recognised by granting a pay?

Sardar Majithia: Yes; that is one of the considerations.

Shri Sadhan Gupta: May I know the other considerations, if there are any?

Sardar Majithia: The other consideration has been this. In the case of Air Force in particular, since the country got Independence, the pay was reduced, and the officers in the lower categories, Wing Commanders and below were hard hit. To compensate them and also to give them an incentive to go for these specialised qualifications, it was considered desirable to give them this qualification pay.

Shri Sadhan Gupta: May I know whether there are many other ranks possessing the same qualifications for which qualification pay is admissible, and if so, the reasons for not granting the qualification pay to them?

Sardar Majithia: To begin with, I am not aware of other ranks having these qualifications. In any case, if there are some, they joined in the other ranks with full knowledge of the pay that they are going to get.

GRANT TO MADRAS UNIVERSITY

***2189. Dr. Rama Rao:** Will the Minister of **Education** be pleased to state:

(a) whether Government have sanctioned any grant to the Madras University for research in Physiology; and

(b) if so, how much?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) Yes, Sir.

(b) Rs. 50,000.

Dr. Rama Rao: May I know whether the Madras University applied for a grant for psychology and not physiology?

Dr. M. M. Das: This question relates to physiology. Although psychology sounds very close to physiology, that is altogether a different question.

Dr. Rama Rao: Though the name physiology bears very close resemblance to psychology, did the Madras University ask for a grant for psychology and the grant was for physiology?

Mr. Speaker: Is the hon. Member sure that the Madras University never applied for physiology?

Dr. Rama Rao: It asked for psychology.

Mr. Speaker: It may have; but is the hon. Member sure that it did not ask for physiology?

Dr. Rama Rao: It never asked for physiology. After this grant has been sanctioned, the Madras University reminded the hon. Central Government that they asked for psychology and not physiology.

Dr. M. M. Das: Not only did the Madras University ask for this grant for physiology, but immediately after this grant was made in February 1953, they have prepared a comprehensive scheme in May 1953 for the establishment of a separate department for physiology, and submitted that scheme to the Central Government.

OSMANIA UNIVERSITY

***2191. Shri K. C. Sodhia:** (a) Will the Minister of States be pleased to state whether the Education Expert Committee appointed for the re-constitution of the Osmania University has begun to function?

(b) If not, when is it likely to do so?

The Minister of Home Affairs and States (Dr. Katju): (a) No.

(b) It is expected that the Committee will start functioning soon.

Shri K. C. Sodhia: What is the reason for the delay?

Dr. Katju: This matter was discussed during the Budget debate and then I stated that, unfortunately, the Chairman who was appointed, Acharya Narendra Dev, was in indifferent health and he resigned in January 1954. Another Chairman Dr. Zakir Hussain was appointed. The Hyderabad Government has been asked to furnish a report or statement about their opinion. They have said that they will do so in a very short time, probably in a week or so. As soon as that statement is received, the Committee is expected to begin to function.

Dr. Suresh Chandra: May I know the reason why the Chairman of this Expert Committee resigned? May also know whether it is a fact that the idea of reconstitution has been dropped because of the opposition of the Hyderabad Government and the Osmania University?

Dr. Katju: I do not think that that is true.

सेठ गोविन्द दास: इस कमेटी को इस विषय के सम्बन्ध में कौन २ से विषय विचार करने के लिये दिये गये हैं, क्या कोई उसकी तालिका उनके सामने रख दी गई है या उन को पूरी आज़ादी दे दी गई है कि जैसे चाहें इन विषयों पर विचार करें ?

डा० काटजू: मेरी याद अभी ताज़ा नहीं है, इसलिये मैं चाहता हूं कि मुझे इस सवाल के लिये नोटिस दिया जाय ।

Shri K. Subrahmanyam: In view of the extraordinary time that has been taken up already, is the Government thinking of fixing a time limit by which the Committee has to report?

Dr. Katju: We shall take that into consideration. If it goes on this way, probably some limit will have to be fixed.

सेना के रिज़र्व सैनिक

***२१९३. श्री भक्त दर्शन:** क्या रक्षा मंत्री १७ दिसम्बर, १९५३ को पूछे गए तारांकित प्रश्न संख्या १०९२ के उत्तर के सम्बन्ध में यह बताने की कृपा करेंगे कि तब से सेना के रिज़र्व सैनिकों के वेतन बढ़ाने के बारे में कोई अन्तिम निर्णय किया गया है?

The Deputy Minister of Defence (Sardar Majithia): The matter is still under consideration.

श्री भक्त दर्शन: क्या मैं जान सकता हूं कि यह निर्णय कब तक होने की आशा है और उसके निर्णय होने में जो देरी हो रही है, तो उसके रास्ते में अड़चनें क्या हैं ?

Sardar Majithia: To begin with, it is not of such importance at the moment bceause our reserve particularly in the Air Force and Navy have still to be formed. So far as the

Army is concerned, only a very small number has been passed on to the reserve. Therefore, this matter is not, at the moment, important. It will take its due course.

श्री भक्त दर्शन : क्या माननीय मंत्री के ध्यान में यह बात नहीं आई है कि जिन नौजवान सैनिकों को समय से पहले ही रिज़र्व में भेज दिया जाता है और दूसरी नागरिक शाखाओं में रोज़गार नहीं मिलता है, उसके कारण उनके अन्दर व्यापक असन्तोष फैला हुआ है ?

Sardar Majithia: It has not been brought to the notice of the Government in any case. But, as I said, very few people have gone on to the reserve.

CYCLONE OVER ASSAM

*2195. **Shri K. P. Tripathi:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether the press reports published in papers on the 17th April 1954 that a cyclone passed over Tezpur (Assam) on the 14th April, 1954, or thereabout causing a loss of one crore of rupees, are correct;

(b) if so, what is the extent of damage; and

(c) what measures have been taken for relief and rehabilitation?

The Deputy Minister of Home Affairs (Shri Datar): (a) and (b). A severe thunder squall (and not a cyclone) accompanied with hail and rain hit Tezpur and surrounding areas between 9-30 P.M. and 9-45 P.M. I.S.T. on 14th April 1954. There was no loss of human life or cattle; total damage—excluding that to property belonging to Posts and Telegraphs Department and in the Tea gardens is estimated at rupees seven lakhs and seventy two thousand.

(c) The State Government have sanctioned eight thousand rupees as gratuitious relief in deserving cases and are considering the question of granting rehabilitation loan. Building materials are also being issued where necessary.

Shri K. P. Tripathi: Is it known that one person has already died and four or five have been injured?

Shri Datar: Our latest information is that there was no death.

Shri K. P. Tripathi: Have Government received any representations for relief?

Shri Datar: So far as I am aware, we have not received any request from the State Government in this respect.

Shri K. P. Tripathi: Is it a fact that private representations have been wired to the Prime Minister?

Shri Datar: To my knowledge, not.

CUSTOMS AND EXCISE REVENUE

*2196. **Shri Bhagwat Jha Azad:** Will the Minister of **Finance** be pleased to state:

(a) what were the reasons for the drop in the total gross customs and Union excise revenue between April and November 1953 as compared with that of the corresponding period of 1952; and

(b) whether there is any improvement in the revenue at present?

The Deputy Minister of Finance (Shri A. C. Guha): (a) This was largely due to reduction of export duty on Cotton cloth and Jute manufactures.

(b) It is anticipated that the collections will be slightly higher in the corresponding period of 1954.

Shri Bhagwat Jha Azad: Arising out of part (b), may I know what would be the approximate percentage of increase in such revenue as the hon. Minister has stated?

Shri A. C. Guha: It is very difficult to anticipate anything. We have just started the period. So I cannot give any figure about the anticipated increase.

Shri Bhagwat Jha Azad: What are the sources from which such increases are expected by Government?

Shri A. C. Guha: If he looks into the figures, he will find that in regard to import tariffs, there has hardly been any decrease. Only in respect of export duty there has been a considerable decrease. I think if our export trade shows some improvement—we expect it to be so—we may make up the deficiency to a certain extent.

INDIAN SOLDIERS', SAILORS' AND AIRMEN'S BOARD

*2198. **Sardar Hukam Singh:** Will the Minister of **Defence** be pleased to state:

(a) the number of decorees of land rewards for gallantry who could not take possession of the land awarded to them owing to partition; and

(b) how many of these have been given compensation from the Indian Soldiers', Sailors' and Airmen's Board Fund during 1953?

The Deputy Minister of Defence (Sardar Majithia): (a) 233.

(b) None.

Sardar Hukam Singh: Which were the States from which these decorees came and whether those States have agreed to make up their contribution so as to make the compensation figure a decent one?

Sardar Majithia: These decorees came mostly from West Punjab, and the Punjab Government did make a certain figure which was Rs. 5,000 per square. The Central Government did approach the Punjab Government to increase this figure to about Rs. 7,000 and also came out with the incentive that they would give them Rs. 5 lakhs, provided the Punjab Government agreed to bear the balance of expenditure. But after careful consideration, the Punjab Government came to the conclusion that Rs. 5,000 per square was quite adequate, and as the other States in India had also stuck to that figure, there was no question of any increase.

Sardar Hukam Singh: May I know whether the decorees shall have to accept this amount in lieu of one rectangle or square of land or whether they have a choice and the Government propose to give them some land in lieu of it?

Sardar Majithia: Unfortunately, there is not enough land to be allotted to these decorees, as the hon. Member knows, the question of paucity of land is already looming large in the States and therefore it only has to be compensation.

Sardar Hukam Singh: What is the cause of the delay? Are there any special reasons why these decorees have not been able to get this amount which was fixed for them?

Sardar Majithia: Yes. The records are kept by the State and West Pakistan has been approached not once but so many times to give us the correct data about these decorees. Unfortunately, we have not received any reply so far, and hence the delay.

Sardar Hukam Singh: When was the latest communication addressed to Pakistan, and if the delay still continues, what action is proposed to be taken?

Sardar Majithia: I have not got the exact date, but I know that we have issued about three or four reminders. About forcing them to take action on it, I am afraid that is not within my power. We have to go on approaching them, and we can only take action after we have received the records from them.

NATIONAL SAMPLE SURVEY

*2199. **Shri Morarka:** Will the Minister of **Finance** be pleased to state:

(a) whether it is a fact that though 5 rounds of field operations were completed by April, 1953 by the National Sample Survey, reports on two rounds only have been published till December, 1953; and

(b) when Government expect to publish the reports on the other rounds?

The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat): (a) Yes, Sir,

(b) Tables with notes on the third round are in the Press and will be published very shortly. The tabulation of the fourth round is expected to be completed by the end of May and its publication by August 1954. Results of data collected in the fifth as well as the sixth rounds are under tabulation and the results are likely to be published before the end of the year.

Shri Morarka: May I know whether it is a fact that figures relating to the period ending June 1951 were not available to the public till March 1954, *i.e.* till after 33 months, and figures after June 1951 are not available to the public even today?

Shri B. R. Bhagat: There has been some delay in the tabulation and analysis of the figures and their publication. But it was due to the shortage of machines and skilled personnel in the initial stages as also of adequate number of top experts capable of preparing reports and analysing the tabulated material. These deficiencies are being progressively removed. I may add that during this period, the Institute has also had to process a number of other reports like data for the Taxation Inquiry Commission, for the Press Commission and others. As these reports were wanted very urgently, they had to be given priority over the publication of the normal national sample survey reports.

Shri Morarka: Is it not a fact that this inordinate delay nullifies the very utility of collecting the data—if they are made available to the public after 33 months and 36 months?

Shri B. R. Bhagat: I do not agree with the view expressed by the hon. Member, but I think during this year the National Sample Survey is going to publish most of its results in the various rounds. The third round is going to be published very shortly, as I stated. Results of the fourth round are to be published in June 1954, and those of the fifth and sixth rounds by May and August of this year. Also, Sir,—these are tables with notes—we are also going to publish the second general report by the end of this year. So there would be a very comprehensive report giving up-to-date data published by the end of the current year.

Mr. Speaker: Mr. Bansal.

Shri K. C. Sodhia: Have the defects pointed out by the National Sample Survey....

Mr. Speaker: I have called Mr. Bansal.

Shri Bansal: May I know the manner in which the conclusions arrived at by the National Sample Survey are utilised by the National Income Unit. Is it a fact that the National Sample Survey came to the conclusion that the food production in the country was actually 25 per cent. higher than what was estimated so far, and if so, in what manner that has reflected on our national income? Also, is it a fact that the Chairman of both the National Sample Survey and the National Income Unit is the same person?

Shri B. R. Bhagat: Yes, the Chairman is the same person. As regards the data provided by the National Sample Survey which were used by the National Income Unit, I think I have given the information in reply to a previous question last week or some ten days back wherein I had stated that very little data were used by the National Income Unit, firstly because, they did not give any direction to the National Sample Survey as to the manner in which and the methods by which data were to be collected. Therefore, they made use of it so far as the manufacture and the production data were concerned, but as regards consumption and other data, they did not make any use of them. As regards the question whether they over-estimated the production by 25 per cent., my answer is 'yes'; they also over-estimated consumption by 25 per cent.—both.

RATINGS' WELFARE FUND

***2200. Shri Sadhan Gupta:** Will the Minister of **Defence** be pleased to state:

(a) the object of the Ratings' Welfare Fund;

(b) which authority is responsible for its disbursement; and

(c) whether officers are entitled to avail themselves of the Fund for any purpose?

The Deputy Minister of Defence (Sardar Majithia): (a) This is a non-public fund, meant for general welfare and amenities to ratings.

(b) Commanding Officers of ships and establishments through the Welfare Officers.

(c) No.

Shri Sadhan Gupta: May I know whether there is any provision for the audit of this Fund and whether the Fund is administered subject to any well-defined rules?

Sardar Majithia: Yes, Sir, a very comprehensive audit is done. For instance, every quarter, a Board of Officers appointed by the Commanding Officer goes into these questions and then the Comptroller of Defence Accounts (Navy), carries out the annual audit of this Fund.

Shri Sadhan Gupta: May I know whether a substantial portion of the Fund is spent by officers for their own amusements and entertainments and the ratings do not get the use of the Welfare Fund for the purposes for which it is meant?

Sardar Majithia: I have already replied to that question in the main part and I have said 'No'. No officer is entitled to get any amount as it is entirely for the benefit of the ratings.

Shri Sadhan Gupta: It is not a question of being entitled. I want to know whether, in spite of not being entitled, it is being so used.

Mr. Speaker: He wants to know whether, as a matter of fact, it is being done by the officers in that way in disregard of the rules.

Sardar Majithia: No. Only entertainments to foreigners is allowed.

Shri Sadhan Gupta: Of officers?

Sardar Majithia: Of foreigners.

Shri Bagwat Jha Azad: May I know whether any representatives of the ratings are there on the Board and what additional facilities have been provided to the ratings since the M.P. delegation visited the ship last year?

Sardar Majithia: This Fund does not deal with that. About further amenities, I do not know what the hon. Member means, because there are a number of articles got from this Fund and with your indulgence, I would like to read the list. They are, library books, newspapers, magazines, periodicals of a non-technical nature, recreation room fittings, cushions, curtains etc., gramophone records and gramophone needles, picnics bara khannas etc., sound recording equipment operator's allowances and loans to ratings in extremely compassionate and urgent cases.

सरवार ए० एस० सहगल : क्या मंत्री महोदय यह बताने की कृपा करेंगे कि रेटिंग वेलफेयर फंड में आज तक कितना संग्रह हुआ है, तथा किन किन मदों पर यह फंड खर्च किया जाता है ? इस मद में कितना फंड आया जब कि सालाना ज़हाज़ों का समारोह बम्बई में हुआ था ?

Sardar Majithia: I have already mentioned the number of items for which this Fund is being spent. About the total amount received in this Fund, I am afraid I have not got the figures at the moment with me.

PENSION CLAIMS

***2201. Sardar Hukam Singh:** Will the Minister of **Defence** be pleased to state:

(a) the number of cases pending on the 1st January, 1954 before the Pensions **Wing** of the Defence Ministry relating to the disability and family pension claims from members of the armed forces and their dependents and

(b) the number decided during 1953?

The Deputy Minister of Defence (Sardar Majithia): (a) 1,286 (including appeals against previous adverse decisions).

(b) 3,998.

Sardar Hukam Singh: What was the number of cases of representations to this wing for consideration of the decisions of the lower pension sanctioning authority?

Sardar Majithia: There were 479.

Sardar Hukam Singh: Now that the Punjab tribunal has been directed to dispose of the pending cases up to the 15th of January and not to receive any further cases for appeal, are those cases from that tribunal being received by this wing or any other tribunal is dealing with this?

Sardar Majithia: No other tribunal is being brought into existence because the number of cases have gone down. As the hon. Member will see, practically 4,000 cases were disposed of last year and only about 1,200 and odd remain, and further, some more have been disposed of and on the 1st of April, there were only about 900 and odd cases left. It is felt that the work is not enough to maintain all that expenditure.

Sardar Hukam Singh: What is the number of cases that would have been received by this tribunal after the 15th January up to date and have been received by this wing?

Sardar Majithia: I am afraid I really do not know the number of cases that would have been received by this Pension Tribunal because I do not pretend to know thought-reading in any case....

Sardar Hukam Singh: They must have been received by this wing now. It is a fact and there is no question of thought-reading it is only fact-giving.

Sardar Majithia: So far as this wing is concerned, the question related to the Pension Appellate Tribunal if the hon. Member tables a question I will certainly give that information.

Shri N. L. Joshi: May I know the duration of the oldest cases pending with the tribunal?

Sardar Majithia: I require notice for that. As I said, the cases now pending are so small in number that they could not be of a very long duration in any case.

PAKISTAN PHILOSOPHICAL CONGRESS

***2190. Shri Muniswamy**: Will the Minister of **Education** be pleased to state:

(a) whether it is a fact that a delegation was sent by Government to participate in the Pakistan Philosophical Congress which was held in Lahore during the first week of April, 1954; and

(b) the subjects discussed at the Congress?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) Yes, Sir.

(b) The Congress discussed various problems of interest to the participating philosophers, psychologists and educationists. There were also symposia on (i) Philosophical Interpretation of History; (ii) The Universal Conception of Human Rights; and (iii) Place of Philosophy in University Education.

Shri Damodara Menon: Did the philosophers discuss the problem of minority rights in Pakistan, Sir?

Dr. M. M. Das: I have already stated the subjects that were discussed.

Pandit D. N. Tiwary: Who were the members of this delegation and how much expenditure was incurred on them?

Dr. M. M. Das: There were two members, Prof. Humayun Kabir, Secretary of the Ministry of Education, New Delhi and President-elect of the Indian Philosophical Congress, 1954, and Professor A. R. Wadia, Director, Tata Institute of Social Sciences and ex-President and Chairman of the Executive Committee of the Indian Philosophical Congress, who attended these meetings. The total expenditure incurred in this connection is not expected to exceed Rs. 800.

Shri Ibrahim: Sir, I have been authorised by Mr. Islamuddin to put question No. 2194.

Mr. Speaker: Has he filed the authority?

Shri Ibrahim: Yes, Sir.

CHECK POSTS ON BORDERS OF PURNEA

***2194. Shri Ibrahim (on behalf of Shri M. Islamuddin):** Will the Minister of **Finance** be pleased to state:

(a) how many check posts are there to prevent smuggling on the borders of Purnea (Bihar) and where;

(b) how many cases of smuggling were detected on these borders in 1952 and 1953;

(c) the total value of the goods seized by the preventive check posts during these years; and

(d) which commodities are generally smuggled?

The Deputy Minister of Finance (Shri A. C. Guha): (a) On the Purnea border, there are three Land Customs Stations situated at Haftiagachh, Debiganj and Katihar Railway Station, and five mobile Preventive parties.

(b) 728 cases in 1952 and 260 cases in 1953 were detected.

(c) The information is being collected and will be placed on the table of the House.

(d) The principal commodities seized while being smuggled on the Pakistan border are cotton textiles, biris and currency on export, and betel nuts and silver (including coins and ornaments) on import; similarly on the Nepal border, Nepalese coins are smuggled on import.

Shri Ibrahim: May I know whether the smuggling has increased or decreased after the introduction of the passport system?

Shri A. C. Guha: Apart from the introduction of the passport system, we are taking so many measures to combat this thing, but, it is very difficult to say whether smuggling has increased or decreased.

Shri S. C. Samanta: May I know how many smugglers have been convicted and by which governments?

Shri A. C. Guha: Conviction must have been by our government on this side. I have not got the figures as to how many smugglers have been convicted.

Shri Bhagwat Jha Azad: In view of the fact that a large number of cases of smuggling go undetected, may I know whether it is due to the insufficiency of the check posts or the inefficiency of the check posts?

Shri A. C. Guha: Sir, wherever there are large land frontiers, it is very difficult to combat smuggling completely. But, I cannot say that on our side smuggling is more rampant than in other places. But, one thing of which I would like to remind the hon. Member is that since as yet the borders are mostly undefined and the people are more or less speaking the same language and belonging to the same social and economic order, there might have been some more smuggling on this side.

WELFARE OF SCHEDULED TRIBES

***2192. Shri Ganpati Ram (on behalf of Shri Shobha Ram):** Will the Minister of **Home Affairs** be pleased to state how much money has been spent by the State Governments from the grants-in-aid sanctioned by the Government of India in 1953-54 for the welfare of Scheduled Tribes?

The Deputy Minister of Home Affairs (Shri Datar): The accounts of 1953-54 are not yet closed. It will be some time before the State Governments will be in a position to furnish information in regard to the actual expenditure incurred by them. This information is, however, being collected and will be placed on the Table of the House in due course.

श्री गणपति राम : क्या सरकार चाहती है कि हरिजनों के कल्याण के लिये भी इस तरह का कोई फंड सेंट्रल गवर्नमेंट की तरफ से अलग रक्खा जाना चाहिये ?

Shri Datar: Grants are made from the fund for the removal of untouchability, and there is, therefore, no need to mark out a separate grant for it.

Shri Ganpati Ram *rose*—

Mr. Speaker: Order, order. The information is not yet before the House. Let it come and then the hon. Member may put questions.

RE-ADMISSION OF QUESTIONS

Shri Bhagwat Jha Azad: I want to draw your attention to a novel method of replying to questions that is adopted now. When we put questions, the practice of disallowing them is done after seeing whether they come or do not come under the 22 rules prescribed for the purpose. This is the general method followed, but recently the practice has been that the questions are disallowed and the answer is given to the Member that put the question.

Mr. Speaker: This is a point on which the hon. Member should address me in my Chamber and get an explanation. The allowance or disallowance of questions and the form of intimation to Members is a matter entirely under the control of the Speaker.

Shri Gidwani: There is a general complaint that many questions are being disallowed nowadays.

Mr. Speaker: Then I shall clear the matter here, but not quite in a detailed manner. Nor do I expect to satisfy every hon. Member who puts questions and finds that the questions are not allowed. Mention is made of the 22 items in the rule, within which a question is permissible. Let me first clear the ground that enmeration of the items is not exhaustive, and it is within the discretion of the Speaker to disallow questions, even if does not come within anyone of these 22 items, for various other reasons. It is not possible to enumerate completely and exhaustively all the grounds on which a question is disallowed. That is one part of it, that is, the reference to the 22 items does not help.

A large number of questions, as hon. Members will see, are disallowed, because they are repeats, that is, some other Member having put the question, they are disallowed. Perhaps, the other Member's question may come in as an Unstarred Question and in that case, it does not come before the House prominently to the notice of the Members and the Members do not know that the question is repeated. Sometimes, there are reasons for not allowing the question and taking up the time of the House as the matter is not of sufficient public importance. In such cases, the practice which I have recently adopted is that, though the question is disallowed, it is but proper that, if possible, the Member should get the information in respect of that particular question. That is how an intimation is given of the disallowance of the question and the Member is also given information in reply to his question. Before I consider the question of allowing or disallowing a question, I always get a factual statement from the Ministry concerned. Many of the statements, for obvious reasons, are of a confidential nature and cannot be disclosed; some of them are of a secret nature and cannot be disclosed, but such of them as can be disclosed to the Member are permitted to be disclosed because the question is not allowed here on account of, as I already said, various other grounds for disallowance and yet I think the Member should be given information on the question. That, I believe, explains the position.

Shri Bogawat: It would not be proper on our part to approach the Speaker every time for this purpose. Can we instead go to the Secretary or the Question Branch and ascertain the position about the allowance or disallowance of the question?

Mr. Speaker: The hon. Member need not fight shy of coming to me. Of course, I do not promise to see him immediately he chooses to come or every time he chooses to come, but I shall try my best to see him.

Some Hon. Members *rose*—

Mr. Speaker: I do not want any further argument here on this point.

Shri R. D. Misra: On a point of information......

Mr. Speaker: Order, order. I cannot allow any further talk on this point.

WRITTEN ANSWERS TO QUESTIONS

SOCIAL EDUCATION

***2187. Shri B. S. Murthy:** Will the Minister of **Education** be pleased to refer to answer to starred question No. 1290 asked on the 25th March, 1954 and state:

(a) whether any research is being carried on, under the Five Year Plan, in social education and if so, in which universities; and

(b) the money allotted for this purpose for 1954-55?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) Yes, Sir, in Central Institute of Education, Delhi, which is affiliated to Delhi University.

(b) Rs. 9,847.

UPLIFT OF SCHEDULED AREAS

***2197. Shri Hem Raj:** Will the Minister of **Home Affairs** be pleased to state the amount allotted for the uplift of scheduled areas in the Punjab in 1954-55?

The Deputy Minister of Home Affairs (Shri Datar): Rs. 8·50 lakhs. The amount allotted is, however, tentative and will be finalised after the detailed schemes have been received from all the State Governments and examined.

CENSUS OF SCHEDULED TRIBES

466. { **Shri Y. M. Mukne:**
Shri Natawadkar:
Shri B. K. Patel:

Will the Minister of **Home Affairs** be pleased to state:

(a) whether sub-caste-wise figures of the Scheduled Tribes were collected in the last census; and

(b) whether those figures have been published?

The Deputy Minister of Home Affairs (Shri Datar): (a) Sub-caste-wise figures of scheduled tribes *i.e.*, Population of Individual Tribes were not tabulated at the last census except in the States of West Bengal, Rajasthan and Vindhya Pradesh. In these States these figures were tabulated at the instance of the State Government. In other States only group totals of Scheduled tribes were tabulated.

(b) Group totals for Scheduled tribes in each State have been published in the Census of India Paper No. 4 of 1953 "Special Groups". They have also been published, district-wise in State Census Reports. The sub-caste-wise figures for West Bengal have been published by the State Government in their publication "The

Tribes and Castes of West Bengal". In the case of Rajasthan and Vindhya Pradesh the figures have not been published.

VOTERS TO LEGISLATIVE COUNCILS

467. Shri U. M. Trivedi: Will the Minister of **Law** be pleased to state:

(a) what is the number of voters in the electorate under Article 171(3) (a) of the Constitution in the Punjab and Uttar Pradesh;

(b) how many of them have ceased to possess the necessary qualifications to form the electorate; and

(c) what would be the number of members of the municipalities or other local bodies authorised to vote under the Constitution in (i) Punjab and (ii) Uttar Pradesh, but debarred from exercising the franchise by non-inclusion in the electoral rolls?

The Minister of Law and Minority Affairs (Shri Biswas): (a)—

Punjab	1518
Uttar Pradesh ...	7330

(b) and (c). The information is not available.

TRAINING OF *Ex*-SERVICEMEN

468. Sardar Hukam Singh: Will the Minister of **Defence** be pleased to state:

(a) the number of *ex*-servicemen who underwent Vocational Technical Training in D.G.R. and E. State institutions during 1953-54; and

(b) what help, if any, was given to them after training to resettle themselves in various crafts?

The Deputy Minister of Defence (Sardar Majithia): (a) 214.

(b) After the training is over the Employment Exchanges in the States assist them in securing employment in Government and private industrial concerns.

U. P. S. C.

469. Sardar Hukam Singh: Will the Minister of **Home Affairs** be pleased to state:

(a) the number of cases in which the U.P.S.C. sent their representatives to preside over Departmental Promotion Committees in connection with promotions by selection during 1953-54; and

(b) the number of officers whose cases were thus considered for promotion?

The Minister of Home Affairs and States (Dr. Katju): (a) and (b). During 1953-54, the Union Public Service Commission representatives presided over 66 meetings of Departmental Promotion Committees to consider the cases for promotion of 4,779 officers. In addition a few cases covering 132 officers were considered by circulation of papers.

पाकिस्तानयों का भारत में अवैध प्रवेश

४७०. श्री रघुनाथ सिह: क्या गृह कार्य मंत्री यह बताने की कृपा करेंगे:

(क) १९५४ में अब तक पाकिस्तान से कितने व्यक्ति पासपोर्ट लिए बिना अवैध रूप में भारत आए हैं : और

(ख) उन में से कितनों को वापस पाकिस्तान भेज दिया गया और कितने भारत में रह गए ?

The Minister of Home Affairs and States (Dr. Katju): The information is being collected and will be laid on the Table of the House in due course.

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Date........27.11.2014

THE
PARLIAMENTARY DEBATES
(Part II—Proceedings other than Questions and Answers)
OFFICIAL REPORT

HOUSE OF THE PEOPLE

Monday, 3rd May, 1954

The House met at a Quarter Past Eight of the Clock

[MR. SPEAKER *in the Chair*]

QUESTIONS AND ANSWERS

(*See Part I*)

9-10 A.M.

PAPER LAID ON THE TABLE

APPROPRIATION ACCOUNTS (POSTS AND TELEGRAPHS), 1951-52 AND AUDIT REPORT, 1953

The Minister of Finance (Shri C. D. Deshmukh): I beg to lay on the Table a copy of the Appropriation Accounts (Posts and Telegraphs), 1951-52 and the Audit Report, 1953, under Article 151(1) of the Constitution. [*Placed in Library. See* No. S-138/54.]

COMPANIES BILL—*Concld.*

Mr. Speaker: We will proceed with the further consideration of the following motion moved by Shri C. D. Deshmukh on the 28th April, namely:

> "That the Bill to consolidate and amend the law relating to companies and certain other associations, be referred to a Joint Committee of the Houses consisting of 49 members, 33 members from this House, namely, Shri Hari Vinayak Pataskar, Shri Chimanlal Chakubhai Shah, Shri Awadeshwar Prasad Sinha, Shri V. B. Gandhi, Shri Khandubhai Kasanji Desai, Shri Dev Kanta Borooah, Shri Shriman Narayan Agarwal, Shri R. Venkataraman, Shri Ghamandi Lal Bansal, Shri Radheyshyam Ramkumar Morarka, Shri B. R. Bhagat, Shri Nityanand Kanungo, Shri Purnendu Sekhar Naskar, Shri T. S. Avinashilingam Chettiar, Shri K. T. Achuthan, Shri Kotha Raghuramaiah, Pandit Chatur Narain Malviya, Dr. Shaukatullah Shah Ansari, Shri Tekur Subrahmanyam, Col. B. H. Zaidi, Shri Mulchand Dube, Pandit Munishwar Dutt Upadhyay, Shri Radhelal Vyas, Shri Ajit Singh, Shri Kamal Kumar Basu, Shri C. R. Chowdary, Shri M. S. Gurupadaswamy, Shri Amjad Ali, Shri N. C. Chatterjee, Shri Tulsidas Kilachand, Shri G. D. Somani, Shri Tridib Kumar Chaudhuri and Shri C. D. Deshmukh and 16 members from the Council;
>
> that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;
>
> that the Committee shall make a report to this House by the last day of the first week of the next session;
>
> that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and
>
> that this House recommends to the Council that the Council do

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join in the said Joint Committee and communicate to this House the names of members to be appointed by the Council to the Joint Committee."

We have, out of the allotment made by the Business Advisory Committee, about 3 hours and a few minutes left for this Bill. I should like to know what time the hon. Finance Minister would require to reply.

The Minister of Finance (Shri C. D. Deshmukh): About one hour.

Mr. Speaker: So, I shall call the Finance Minister at about eleven o'clock to reply.

Shri Kasliwal (Kotah-Jhalawar): May I make a request? There are a large number of Members wishing to speak on the Bill yet. Would you kindly allot only ten minutes per Member?

Mr. Speaker: In fact, I was myself going to request the Members to take as short a time as possible, and I intend that the limit should be fifteen minutes at the most for every Member's speech. I wanted to mention it after I had finished something on my hand. A point of order was raised on 1st instant by the hon. Member, Shri U. M. Trivedi that, as the Companies Bill contains provisions, under Table B of Schedule I, prescribing certain scales of payments which are not "fees for service rendered", the Bill cannot be introduced or moved except on the recommendation of the President.

This objection was not raised when the Bill was introduced. But as the failure to raise that point cannot be "an estoppal", the present objection to the moving of the motion for the reference of the Bill to the Select Committee without having the recommendation of the President has to be considered. A number of subtle and learned arguments on this question were advanced in the House and the proceedings were adjourned for the day. The Chairman has left it to me to dispose of the point of order raised and she also stated that I may go through the proceedings and give my decision.

I have carefully gone through all the proceedings and have considered all the arguments advanced for and against the point of order. I do not propose to take each argument separately. It will be more convenient to deal generally with the matter raised in view of my approach to the question.

The main argument on which reliance is placed by the supporters of the point of order seems to rest principally on the plea that the registration of a company or the various items of administration by or through government agencies with reference to a company, in respect of which Table B makes a provision for fees cannot be said to be "service rendered" to the company concerned. Advocates of this argument seem to think that, as a company is not in existence prior to registration, the fees in respect of the registration of the company cannot be said to be fees for rendering service to the company, as, *ex-hypothesi*, the company has then not been born and there can be no question of service to any unborn legal entity. The gist of this argument connotes that registration alone cannot be said to be a service rendered to the new child to be born after registration; and therefore, in any case, so far as that part of the provisions in Table B as provide for initial registration is concerned, though it is termed as fee, is not fee for service rendered but pure impost, not falling within the exception provided by sub-clause (2) of article 110. To me, it appears that the argument, though plausible, is yet fallacious; and it could be always argued with force that, just as a nurse can be said to serve the child in helping the safe delivery of the mother, registration of a company can be said to serve the company in as much as it enables it to come into legal existence and carry on its business.

But apart from this, there is a wider and general aspect about company formations and the service that the State renders to companies right from their inception. The legal notion about the existence of an artificial incorporeal legal entity like a company can now be said to be very familiar and a firmly established one. To my mind, the principal purpose is to afford facilities to trade and industry by enabling the subjects and also the State not only to launch undertakings on a very large scale which it would not be possible for an individual or a small body of people to do, but also further to enable them to limit their liabilities within certain limits. The ordinary partnerships which, by their very nature, usually limit the extent of capital and therefore the development of an undertaking, carry also unlimited liability on the shoulders of the partners and it has been, therefore, necessary to have some device by which large undertakings with limited liabilities of the individuals can be made possible for the general and national benefit.

Looked at in this background, it becomes necessary, for advance of trade, commerce and industry for the general and national benefit, that the State should provide facilities for floating and conducting undertakings which will not only provide employment to large masses but also provide investment for small and big savings, to be put to the best use in the interests of the nation. In this view, the special administrative machinery through services of the Registrars of joint stock companies, their offices, etc., which the Bill creates and the State undertakes to maintain, as provided in the present Bill, is in itself a benefit and it is but proper and equitable that those who stand to gain by this particular facility should contribute something towards the cost when they wish to get the benefit. But for formation, regulation, inspection and control of companies by the State, I doubt whether one would like to invest his savings or money either in large undertakings, whether undertaken by the State or by private agencies and whether the sponsors of industry would undertake to do so if they had not the benefit of a limited liability and safeguards which the machinery set up under the Bill provides. In this view, it becomes unnecessary to discuss the various points raised during the course of the debate.

It is true that the rates of fees prescribe certain graduated scales in some cases and the services rendered for or in respect of each particular company formation, for which the fee is charged on a graduated scale, are practically the same, and, therefore, it may appear on the surface that different fees are being charged for very nearly the same amount of work. But to look at the matter in that way is to take a very narrow and isolated view of each item. There is the basic advantage which every one gets when he wishes to have a company registered by reason of the costly administrative machinery which the State specially sets up under the Bill; and the cost incurred for the benefit given is met in part by the fees. The fixing of the scales appears, therefore, to be based on the principle that each contributes to the cost of this basic benefit in proportion to each one's capacity to pay. That is why you find the company with a small capital having to pay initially a smaller registration fee, while the companies with bigger capital have to pay higher fees varying with the capital formations. The work of actual registration may be the same but the consequent advantages that a bigger concern stands to gain or much larger than the smaller concerns and it therefore stands to reason that the bigger ones should pay higher amounts of fee in view of larger benefits that are going to accrue by the larger formation.

To my mind, the essential test will be to see as to whether the fees are intended as a source of ordinary revenue for general purposes of Government or whether they are intended only to cover a part of the expenditure for the special administrative set up. Looking to the scales provided for in Table B there is no room for doubt

[Mr. Speaker]

that the fees are not prescribed for general revenue purposes. It is also worth noting that every item for which a fee is prescribed, also involves some service to be rendered specifically. In matters of this type, one has to go on the wider and general aspects and not on details as to how the scales are fixed. By the very nature of things, it is impossible to arrive at the exact cost of every specific service and the contributory cost of the general set up of administration which Government provide for the facility of those who wish to form companies and have a specific service.

I may quote here what the Supreme Court judgment says:—

"It may not be possible to prove that the fees that are collected by Government approximate to the expenditure incurred by Government in rendering any particular kind of service or in performing any particular work for the benefit of certain individuals". The learned Judge further says. "In order that the collections made by Government can rank as fees, there must be co-relation between the levy imposed and the expenses incurred by the State for the purpose of rendering such services." I think that the expenses which Government will incur and are incurring for the maintenance of the special administrative machinery set up by part XII of the Bill (clause 568 *et seq*) may be higher than the moneys they are likely to realise in the form of fees.

A point was made and some argument was advanced based on the way in which the accounts in respect of the receipts and disbursements of these fees are kept and it was urged that because these fees were credited in the Consolidated Fund, they were, therefore, part of the general revenues. It cannot be denied that the proceeds received by way of fees are part of the revenues received by the Government of India and therefore under the provisions of article 266, they have to go to the Consolidated Fund of India. The conception of the Consolidated Fund is to have a machinery for check on accounting of revenues and expenditure and one cannot decide about the nature of a particular levy, as to whether it is a fee or tax or other kind of impost, by examining whether it is credited or not credited in the Consolidated Fund. I therefore need not enter into any examination of this part of the argument.

So long as one can *prima facie* see that the levy of these amounts in Table B is not in the nature of a source of general revenue, but is prescribed more or less for meeting the expenditure in respect of specific facilities and the special machinery which Government provide, it is not necessary to see whether or not a separate account of fees is kept. Whether the moneys are separately earmarked for the expenditure or not, it will be enough if the amount of fees collected approximates to the expenses incurred in rendering any particular kind of service, as stated by the hon. Mr. Justice Mukerjee in the judgment first referred to.

I may also point out here what the hon. Minister of Commerce has said. During the course of the debate, he invited the attention of the House to the fact that "in all demands there is a column showing the revenue received by way of fees for services rendered. Whether the demand is reduced or not is purely an orthodox or budgetary device, but it is shown against that particular appropriation that the sum is received by way of fees. That amount goes to the diminution of the total amount allocated for that particular demand".

I do not think I need enter into the other questions which were incidentally raised such as, for example whether the Bill can be called a Money Bill, the effect of clause 571 in the Bill, etc. They do not seem to to be relevant for the purposes of the present decision.

I am, therefore, of the view that the point of order raised cannot stand

and the Bill is introduced in a proper manner and the present motion is also in order, as it does not require the recommendation of the President under article 117(1).

Incidentally a second point was developed and that was with reference to the provisions of article 117 of the Constitution, sub-clause (3) and that reads as under:

> "A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of India shall not be passed by either House of Parliament unless the President has recommended to that House the consideration of the Bill."

In this case, I would like to read to the House this communication from the hon. Finance Minister: "The President has been informed of the subject-matter of the Companies Bill and recommends to the House of the People the consideration of the Bill." So that question does not remain now for further consideration.

We will now proceed with the further consideration of the motion which is before the House and I will repeat what I have said, *viz.* I find a large number of hon. Members desirous to speak and there are hardly about two hours now for hon. Members excluding the one hour which the hon. Finance Minister will take. I would, therefore, request hon. Members earnestly to finish their speeches within fifteen minutes each.

Shri H. N. Mukerjee (Calcutta North-East): We are dealing with a mammoth Bill with 600 and odd clauses and the hon. Finance Minister had said that this is, after 1913, the first comprehensive re-draft of company laws. If the Finance Minister and his advisers had taken to some re-thinking more than the re-drafting, then perhaps there was some chance of this legislation being really comprehensive; otherwise, I am afraid that it would not be a luminous but voluminous and vapid piece of legislation. He has said that the 53 and odd clauses dealing with the managing agency are of great importance and he has asked us to examine them in a wider aspect. He has also told us that regardless of our ideologies, we should make a worthwhile contribution to achieve the limited objective before us, I shall try to do so......

Mr. Speaker: Order, order. Let there be no talk please.

Shri H. N. Mukerjee: I shall try to make a worthwhile contribution according to the Finance Minister's advice but. Sir, I confess that I have very little expectation of our advice being taken for whatever it is worth.

I was very interested to listen to the speech of the hon. the Minister of Commerce and Industry who, with his usual dexterity with words and ideas played some interesting variations on the theme of the Finance Minister. He said that the benefits accruing from the joint stock companies system relate only secondarily to the entire economic structure of the country. This shows what the Government's mind is like; it is fantastic in the setting of a planned economy. He said: 'We consider the benefits accruing from the joint stock companies to be only secondarily related to the entire economic structure of the country. He said, of course a good deal about the evils of the acquisitive society. Possibly he has been lately reading R. H. Tawney's famous book on that subject. We tolerate, he said, this acquisitive society either because of the good that comes out of it or because we have nothing else to replace it. I fear that he really believes that good comes out of this acquisitive society; otherwise I do not understand the way the Government goes. I say that in the context of planned economy it is for the Government either to oppose or to guide a thorough-going social and economic revolution. Government today has not the guts and the courage to say openly that it is opposing the transformation, nor of course does it guide that transformation. Because it is not guiding that

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transformation, it is really putting hurdles in the way of economic development.

I cannot accept the idea that we have nothing else today to replace the system of managing agency with. It is not like the laws of the Medes and Persians, something which is immutable. If in this House we can say that in August 1959 our present managing agencies will terminate, there is nothing to prevent us saying that this termination should be for ever.

I heard Mr. Chatterjee—unfortunately he is not here—and I was reminded of the minute of dissent by Pandit Madan Mohan Malaviya whose mantle he perhaps vainly imagines to have inherited—I mean the minute of dissent which was appended by Pandit Malaviya to the Indian Industrial Commission's Report of 1916. From Malaviya to K. T. Shah who was very closely associated with the National Planning Committee which made the only real planning effort in this country, we find the opposition to this system of managing agencies.

[PANDIT THAKUR DAS BHARGAVA *in the Chair*]

In view of the very short time at my disposal, I will refer to certain comments made by Professor Shah in regard to these managing agencies In his book—*Report of the National Planning Committee on Industrial Finance*—on pages 24-25, he refers to these agencies as a new species of predatory animals who help to finance enterprises for the sake of the cream obtainable from them. There he says: Industrial financing through stock exchange operations makes it little better than gambling and the industrial financier is a super gambler; only he is protected by law for perverting it and honoured by the community for exploiting it. He says further about the same managing agencies, that even though there may appear a few institutions or people who try to behave fairly and decently, the whole system is rotten root and branch, leaf and bark and blossom, and must be abolished at the first opportunity so that no ground can remain for any prepostrous claims being made by its advocates on the score of providing industrial finance. I know all sorts of slogans are bruited about capital in India being shy and how those who have inherited the methods of plunder which the British interests in this country adopted in the shape of managing agency, those people alone are able to mobilise the financial resources of our country. I know that today there is a combination of Indian and foreign monopoly interests. There is a kind of window-dressing with the guinea-pig Indian directors in show-battles. This Indo-foreign collaboration is a danger to our country if we care for capital development. In this fashion economic *swaraj* is going to be absolutely impossible.

This matter has been re-stated by many writers and I am afraid I have not got the time to give the facts and figures in relation thereto. But I would mention only one report from a book by Professor Lokanathan—*Industrial Organisation of India*. There it is reported, quoting from the Cotton Textile Enquiry Report of the Tariff Board in 1927, that the commission paid to the managing agents for the Bombay cotton mills during the 20 years from 1905 to 1925 averaged 5·2 per cent annually on the paid-up capital. This was in addition to any dividend on shares held by the managing agency and commissions by way of purchases and sales. We find, for example in 1927, that whereas 75 of the mills of Bombay made a net loss of Rs. 7,36,309 the total allowance and commission drawn by managing agents were Rs. 30,87,477. And, how the foreign interests come into the picture and control the operation is seen in the same report of the Tariff Board, cotton textile enquiry. It shows, on the basis of statistics covering 99 per cent of the Bombay cotton mills—First volume, page 258—that the managing agents while they controlled only 22 per cent of the companies, controlled 33 per cent of the mills, 32 per cent of the spindles, 30 per cent of the looms and 53·30 per cent or the actual majority of the capital. This is in the industry which has been the principal field of advance of Indian capital, and it is no wonder that all our economists and all our patriots have raised their voice against this managing agency system.

Now, Sir, I would like to draw the attention of the Finance Minister to a very interesting statement made by a leader of the Praja Socialist Party, Shri Ashok Mehta, who wrote a pamphlet called "*Who owns India?*" He shows therein how there are individual directors who like a Bombay magnate whom I shall not name, with 55 directorships. Then he goes on further and gives figures on page 35 of his book, that out of 3728 directorships, 61 directors hold 1038 directorships, 20 persons hold 805 directorships and so on. This is the kind of way in which 2 per cent. of the directors control almost 22 per cent. of the directorships.

We find also that in India, though there is no material expansion of production, no real improvement in the standard of living of the people, there has been a tremendous degree of concentration and the result of it is that the managing agents' share of net profit is much more than that of the poor shareholders. It has been found by the Bombay Shareholders' Association on the calculation of figures for 1940-47 that the cotton textile mills in Ahmedabad made 70·5 per cent of the net profits, while the shareholders got 31 per cent. The jute mills in Calcutta got 54·2 per cent as the managing agents' share of net profits while the shareholders got 43·2 per cent. That is the kind of thing which goes on. We know also, Sir, how certain empires have been created like the Birla House, Dalmia House, Singhania House. Tata House. Goenka House and so on. We know how they are controlling the financial operations; how they are trying to control the Press all over the country and how they are trying to create a condition of things so that they alone shall be ruling the roost. They have got the finance and they spend a lot of money. I find a book by Prof. S. K. Basu, which was quoted by my friend Mr. Nayar. Therein he gives some figures about the Calcutta jute mills. In his book on page 151—"Industrial Finance"—he has shown that in 35 jute mills in Calcutta, the percentage of total capital held by managing agents varied from ·4 to 11·5 per cent. That is the wonderful contribution they make towards mobilisation of finance for the sake of development of the industries in our country.

We know, how these managing agents resort to the most dastardly methods in cheating the shareholders, the consumers and the State. I refer in particular to the two volumes of the *Mystery of Birla House*. The publication has been a scandal which Government has not been able to outlive. I have quoted in this House before what foreign observers have said, that if a book of this kind comes out in any country which claims to have a civilised economy, something must be done about it or the Government must come forward and entirely justify whatever has been allegedly done by that firm. Now, that empire of Big Money operates today in such a fashion that the interest of our country is in great jeopardy and the managing agency system is the method they are using in order to perpetuate their stranglehold.

In regard to this, I wish to draw the attention of the Finance Minister to a document to which I drew his attention some time earlier, namely, the lectures given by Prof. Charles Bettelheim at the Indian Statistical Institute in Calcutta in January 1954. Talking about the planning of investment, he says that in a capitalist economy based on the market, the portion of national income which goes

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to investment depends upon so many factors, of which the most important seems rather definitely to be the amount of profits realised. It is generally recognised, how despite the efforts made in capitalist countries to control the amount of investment, the latter is subject to sharp and large fluctuations which can shake the entire economy. Thus in the United States the rate of net investment in relation to gross national product went from 8·4 per cent in 1929 to minus 4·5 per cent in 1933; from 6·6 per cent in 1940 to minus 0;2 per cent in 1944 and again to 10·8 per cent in 1950, the year of the Korean war. In a planned economy the rate of investment is, by contrast extremely stable. In effect in the Soviet Union, the rate of gross investment has remained for many years around 20 to 25 per cent. The rate is fixed by decision of the political and economic organs. This is because, if monopolistic practices are tolerated then there is every possibility of economic dis-equilibrium, and if we are going to encourage the continued existence of these monopolistic interests, then, surely, the economic disequilibrium which you want to remove will never be removed.

Now, Sir, about Industrial Finance I hope the House gets an opportunity of having a real discussion before the foundations are laid for the Second Five Year Plan. Industrial finance requires reorientation of the banking structure, reform and drastic overhaul of the stock exchanges, changing the entire trade, financial, fiscal and industrial policy; in a word, the entire economic policy of the Government. There must be control in regard to prices, in regard to production, as well as in regard to distribution. There has to be control on capital issues. Government has to look after the diversification of trade. It is for Government to see to it that there is no dissipation of surpluses which can be avoided. Government has to take steps against the unfair and objectionable competition of foreign units. Government has further to avoid excessive imports and see that processing industries are started in our country. Also, Government has to have a real taxation policy. In regard to this point, I quoted some time earlier the index numbers of industrial profits with 1939 as the basis, from the *Eastern Economist* dated 5th March 1954. In 1951 jute industrial profits rose to 679·1; cotton rose to 551·1, sugar rose to 420·8, and all industries together reached the figure of 310.5. This is the increase made in the industrial profits. At the same time we find that the common people are told to come forward with their savings. Who has got the savings? The savings are all in the money bags of the mighty whom you do not dare to touch. You do not try to improve the standard of living of the people; instead you are asking them to bring up their savings and blaming them for nothing.

Shri C. D. Deshmukh: May I know whether these figures which the hon. Member just now quoted are gross profits or net profits?

Shri H. N. Mukerjee: I quoted the figures from the *Eastern Economist* where the figures of industrial profits are given:

Shri C. D. Deshmukh: Are they gross profit, net profit or distributing profits?

Shri Velayudhan (Quilon *cum* Mavelikkara—Reserved—Sch. Castes): It is a very complicated economy.

Shri H. N. Mukerjee: My basic point is that there are reserves which can be drawn upon if Government has a real fiscal policy.

Mr. Chairman: The hon. Minister wants to know whether the figures represent gross profits, net profits or distributed dividends. If the hon. Member has got the information he may pass it on

Shri H. N. Mukerjee: My point was.....

Shri C. D. Deshmukh: I do not expect the hon. Member to remember from the *Eastern Economist*. What I want to say is that at one stage the hon. Member says that the managing agents take away a large percentage of the profits and the shareholders get nothing, and then a little later he says that the profits are so large that the Government can do everything.

Shri H. N. Mukerjee: My point was that we have to safeguard not only the interests of the shareholders from the hands of these managing agents who exploit the shareholder, the consumer and the State. They are a class of industrial profiteers who have been drawing their dividends in a variety of ways. The position of our industries is most rotten. If it is our conclusion that with these people alone we can build up our industries and we cannot mobilise the financial strength of the country without these people, I say that is a wrong conclusion. My point is that there are reserves which we can mobilise. I refer to these industrial profits only to show that we have to have a change in the taxation structure of our country. I say it, Sir, because we can prove to the satisfaction of the rest of the country that there are resources which can be utilised to bring about a complete topsyturvydom in our economic system. That is my point.

In regard to the resources which are available, there were some very interesting figures which were given by Prof. K. T. Shah in his essay on Industrial Finance in the report of the National Planning Committee. He refers to the resources which may be mobilised. I am quoting from pages 37 and 38. His estimate was that bank deposits are available for investment to the tune of Rs. 500 crores, sterling balances to the tune of Rs. 750 crores, reserves in existing industries Rs. 150 crores, reserves in individual hands Rs. 500 crores, potential mobilisable from charities and religious foundations Rs. 1500 crores, making a total of Rs. 3400 crores. Leaving a large margin of cautious reckoning, he said that Rs. 2500 crores could be immediately available. I do not adopt these figures entirely. Looking at the *Eastern Economist* for the week ending 23rd April 1954 I find that bank deposits, both on call and for fixed periods in the Reserve Bank and the scheduled banks come to Rs. 1056.96 crores. There must be some overlapping; I agree much of it is already being invested. But, one-third of this figure is certainly available. That would make Rs. 350 crores.

In ragard to sterling securities, what I feel is that we should make sure that even if we are not utilising as much of it as some of us would like, at least the current accumulations, which would be about Rs. 300 crores, (£35 million multiplied by six) due to be released in 6 years, should be certainly utilised for development, mainly industrial development. The reserves of the joint stock companies will be to the tune of Rs. 100 crores. We are not in favour of nationalising at this present moment. But, I remember that National Planning Committee, in its preface to the report on industrial finance suggested that the total reserves of the joint stock concerns should be pooled together in the National Reserve of capital. I say this has to be done because industrialists are shy. In 1947-1950, the pre-Plan period, investment in the private sector was on the average Rs. 80 crores per year. Since 1950-51, during the three years of planning the average has been Rs. 20 crores per year. This kind of thing has got to be prevented. That is why we have suggested before and I repeat it that for the purposes of industrial finance, the private industrial sector has really to be integrated with the overall Plan. There should be a statutory fixation of a ceiling of 6¼ per cent on all profits. I do not mind some expectation of profits by some of my friends over there. Let there be a

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minimum fixed and also a ceiling of 6¼ per cent fixed. Prohibit remittance to Britain of industrial, trading, shipping, insurance and other profits, which amount to an enormous sum; compulsorily plough back all profits into lines determined by the Government into industries that promote industrialisation. Along with these measures, reduce the prices at least by 30 per cent. take steps to raise wages and salaries, stop the eviction of the peasantry and the realisation of peasant debts, reduce the burden of taxes, assure fair prices to agricultural produce, fix adequate wages and so on. You will get a context of society where capital formation can really and surely take place. These are some of the most important points that I wanted to place very seriously before the Finance Minister.

One other point...

Mr. Chairman: I am sorry, the hon. Member has already taken 20 minutes. I request the hon. Member to conclude in one minute.

Shri H. N. Mukerjee: I shall finish in two minutes; there has been some interruption.

There is one important point to which I want to refer. Shri T. T. Krishnamachari wanted us to welcome certain clauses of this Bill. I welcome clause 53 where the foreign companies are asked to produce their balance-sheets. But, there is a proviso which is the sting in the tail. I want the proviso to go. After all, if the foreign companies whom we are treating with so much consideration are going to get the advantage that they may be exempted from the obligation to publish the balance sheets, they may behave very badly. I wanted to refer, in this connection, to *Company News* of November-December 1953 where these Indian capitalists objected very strongly to the fact that in the case of Burma Shell and Standard Vacuum, the right of the Indian shareholders to more than 25 per cent of the capital was refused and that they are not allowed to have any right in regard to vote. We also find in the oil refinery agreement that there are special specified concessions in the matter of investment of capital, nationalisation and the application of the Industries Development and Regulation Act. This is a kind of thing which we do to show our particular fondness for foreign capital. Let us have foreign loans if we need them, by all means. But let us keep out foreign equity capital. That is the point about which Indian patriotism has been shouting all the time and I want the Government to take note of it.

I would make a last appeal to the Finance Minister. I would tell him, you shed the profitable pessimisms of the prosperous. It is these people who tell him, you cannot go forward courageously and imaginatively to build a new future for our country. That courage and that quality of imagination I miss in the Companies Bill before us. I have very little hope that even the Select Committee, in spite of whatever labours it may put forth, could produce that kind of comprehensive legislation which would be a preface to the real planning and real economic reconstruction of our country.

Shri M. D. Joshi (Ratnagiri South): I rise to welcome this Bill for two reasons. First, it seeks to remove certain inequities and it seeks to do justice to the common man.

Before I enter the subject, I should like to say that the system of managing agency which has been the cause of immense evil has been censured in different terms. Managing agents have been described as sharks; some have described them as leeches. Certain others have described them as vultures. Well, the vocabulary of the English language is copious and several other names can be added with good justice. I do not, however, wish to add other names. The fact remains that in spite of all this censure, it is realised by most people that the managing agency system should continue at least for some time to come. Whatever we may say about it, the managing agency system must remain for some time more.

The hon. Member, Shri Sadhan Gupta, said the other day that this Bill betrays a love of something British or words to that effect. India was under British rule for over 200 years. It is inevitable that in many respects the British pattern should remain here. We are not enamoured of the British pattern. In spite of our association with the British pattern, we have succeeded in ousting the British from India. Therefore, we should not be afraid of the British pattern in certain respects. At least, we do not want other patterns which we do not know. I wish to remind him of a well-known saying that it is better to be associated with a thief whom we know than with a thief whom we do not know. Therefore, we are not afraid of the British pattern as the hon. friend is. Nor do we love any other pattern, such as the Russian pattern.

Shri Sadhan Gupta (Calcutta-South-East): Irrelevant.

Shri M. D. Joshi: The managing agency system is sure to go, but it will take some time before it will go. Likewise, private enterprise is also essential. We find that even on this side certain friends have said that nationalisation of certain concerns—of certain industries—has not been as successful as it should have been. We are yet far from that stage of society when nationalisation will be successful. The other day my hon. friend, Shri C. D. Pande, pointed out the case of the S.T. Corporation in Bombay State. He said that it had been too expensive. I entirely agree with him. Nationalisation is, no doubt, a consummation certainly devoutly to be desired. However, we have to wait for that day, we have to develop our society, we have to develop our view of things, our attitude to life, and therefore it will take sometime before we can dispose of private enterprise In the meanwhile, let private enterprise keep before themselves the ideal placed before them by Mahatma Gandhi. Let them consider themselves to be the trustees for the common man. Mahatma Gandhi alone could place this great ideal and he had the power to induce even private enterprise to adopt a change of heart. We have not got that power. Therefore we must have recourse to legislation; it is by legislation alone that we can effect the change. Therefore, I would compliment the Finance Minister on introducing this legislation.

I have said justice is sought to be done to the common man. Now, the common man figures in two capacities: he is either shareholder or a depositor. The provisions in this Bill seek to protect the shareholder against the machinations of managing agents or the directors. Now, I want to bring to the notice of this House a great deal of hardship that is caused to the investor, *viz.* both shareholders as well as depositors. In Maharashtra, there have been certain private companies as well as public companies with a total share capital of about Rs. 3 crores to Rs. 4 crores and a deposit capital also of about Rs. 3 to Rs. 4 crores. This capital was contributed by poor people, of the lower middle-class. Now, I have before me a copy of the memorandum submitted to the Government of India by the *Thevidar Parishad* of Maharashtra. There were two conferences of this *Parishad*. The second conference was presided over by Mr. R. A. Jagirdar, who was at one time a judge of the Bombay High Court. In that they lay stress on the incompetency, callousness and unscrupulousness of these private and public companies. I have also before me a *Marathi* newspaper which has published the names of 13 companies which have gone into liquidation and of 17 other companies which are in the process of liquidation in the city of Poona alone. Their cases are pending in the district court of Poona. There are, I learn, about 25 more companies in Maharashtra which are facing the same fate. If that is the case in a province like

[Shri M. D. Joshi]

Maharashtra, it may be that other provinces aslo are sharing the same experience. So the common man, if he is protected as a shareholder, must have the same protection meted out to him when he goes to the companies as a depositor. Now, Mr. L. N. Wellingkar who was the Chairman of the *Thevidar Parishad* said in that conference that an advice was published by them through the newspapers to the common depositors. What they said is as follows—this is the advertisement published—

> "A Warning to the Depositors—Do not be deceived by alluring advertisements—Make deposits after making sure of security and solvency—For further information, apply to the Association".

10 A.M.

So if we want that the common man should be protected, if we want that the common man's noble instinct of subscribing to the national capital and subscribing to the national advance of industrialisation should be developed, then the common man's interests must be given adequate protection. When the Company Law Committee went round in their investigation, this particular problem of the common investor was not before their eyes. We do not find any reference to it in the discussions of the Company Law Committee. But after the deliberations of the Company Law Committee were published in the form of the report, these representatives of the common investors approached Government, and I am sure that this matter must be engaging the attention of the hon. Finance Minister. I would appeal to him that proper and adequate protection be given to them in the form of some section—I do not know in what precise terms they can be protected; it is not for me to say, it is for the Select Committee—but one thing I know—that the debenture-holders are given ample protection. The debentures are secured debts while the depositors who subscribe to the capital of the company are not secured. Therefore, they should be given some security, some safety which will induce them to invest further.

One more point and I shall have done. That is about proceedings in the High Court. Now, the High Court alone can take cognisance of suits under this law; proceedings can be started in the High Court alone. A good deal has been discussed in the Company Law Committee's report, but unfortunately they have come to the conclusion that the jurisdiction of the district courts should be withdrawn in this matter. I think this is a hardship. If we want to protect the common man, if we want to give him all the facilities to seek justice from the courts, he must be allowed to approach the District Courts. In this light, this section giving High Courts alone the jurisdiction seems to be a retrograde step. Therefore, I think if real redress is to be given, if the interests of the common man are to be really protected, the district courts should be given jurisdiction. If my time is up, I conclude.

श्री के० सी० सोधिया (सागर) : मान्यवर सभापति जी, आपने कृपा करके मुझे जो समय दिया है उसके लिये मैं आपका आभारी हूं। इस बिल के सम्बन्ध में मुझे थोड़ी सी बातें कहनी हैं।

पहली बात तो यह है कि यह बिल बड़ा रूखा बिल है, इसमें सब लोगों को दिलचस्पी नहीं हो सकती। जिस वक्त कि पिछले सेशन के खत्म होने पर इस बिल की पोथी मेम्बरों को दी गयी, हमने घर पर जा कर इस बिल को स्टडी करने का विचार किया और आठ, दस दिन तक मैं उसको स्टडी करता रहा लेकिन इस के बाद मैं उसमें ज्यादा दिलचस्पी नहीं ले सका। सिर्फ दो सवाल ऐसे थे जिन सवालों ने मुझे इस बिल के सम्बन्ध में और ज्यादा स्टडी करने के लिये लाचार किया और भाग्य से मुझे कम्पनी ला कमेटी की रिपोर्ट भी साथ में मिल गयी, उस रिपोर्ट को मैं ने बड़े ध्यान

से देखा और इसीलिये मैं आपके सामने अपने विचार थोड़े में प्रस्तुत करता हूं ।

मैं ने आपसे कहा है कि दो सवाल ऐसे थे जिन्होंने मुझे इस बिल को स्टडी करने के लिये लाचार किया और उनमें से पहला सवाल यह था कि मैं इस बात को जान लूं कि सरकार ने हाल में जो बहुत सी प्राइवेट कम्पनियां पबलिक सेक्टर में खड़ी की हुई हैं और जिनके ऊपर इस देश के गरीब आदमियों का करोड़ों रुपया लगाया गया है उन कम्पनियों के सम्बन्ध में जब २ इस हाउस में सवाल उठता है तो सरकार कह देती है कि यह प्राइवेट कम्पनियां हैं, उनके बारे में अभी जानकारी देना वाजिब नहीं है और समय आने पर उनके बारे में जानकारी दी जायगी । इस तरह से बात को टाल दिया जाता है तो मैं ने सोचा कि शायद इस बिल में उन कम्पनियों के सम्बन्ध में कोई विशेष बात का ब्योरा हो जिससे कि यह बात जानी जा सके कि उनमें कितना रुपया लगा हुआ है, कितनी उनसे आमदनी होती है और कितना उनका खर्चा है, ये बातें शायद इस बिल में आ सकती हों, इसीलिये मैं ने इस बिल को ध्यान से देखा लेकिन मुझे मालूम हुआ कि इस बिल की धारा ५७५ में सरकार ने अपनी कम्पनियों के सम्बन्ध में किसी बात को बताने का हक अपने लिये महफूज रक्खा है और इस बात को कहा गया है कि इस बिल की जो अलग २ धाराएं हैं वह सरकारी कम्पनियों के ऊपर लागू हों या न हों, इस बात का निश्चय करना सरकार ने अपने हाथ में रक्खा है । मैं सेलेक्ट कमेटी के मेम्बर साहबान से इस सम्बन्ध में निवेदन करूंगा कि वह इस धारा को इस तरह से रक्खें जिसमें सरकार इस बात के लिये लाचार हो कि वह इन कम्पनियों के बारे में इस हाउस को ज्यादा जानकारी दे सके, क्योंकि मैं समझता हूं कि इस हाउस का हक है कि उन कम्पनियों के बारे में आवश्यक जानकारी प्राप्त करे और यह बातें जाने कि सरकार उन कम्पनियों को किस तरह से चला रही है । मुझे इस बात का मान है कि शुरू २ में जो काम चलाये जाते हैं उनमें नुकसान होता है, तरह २ की हानियां होती हैं लेकिन इसका यह मतलब नहीं है कि उनके सम्बन्ध में सब बातें खूब अच्छी तरह से जान बूझ कर ढांक कर रक्खी जांय, अगर सरकार ने ऐसा किया तो इसका नतीजा सिर्फ यह होगा कि लोग उनमें ज्यादा दिलचस्पी नहीं लेंगे और सरकार के क्रेडिट को इससे नुकसान पहुंचेगा ।

दूसरी बात जिसने मुझे इस बिल के सम्बन्ध में स्टडी करने के लिये लाचार किया वह फारेन कम्पनियों का मामला है । इस देश के आदमी और इस सभा के बहुत से मेम्बर साहबान इस देश में विदेशी कम्पनियों का जो जाल बिछा हुआ है उनमें उन देशों के रहने वालों की काफी पूंजी लगी हुई है, यहां से अपने फायदे का करोड़ों रुपया हर साल ले जाती हैं, उसके सम्बन्ध में इस देश के हर एक विचारशील आदमी को जानकारी प्राप्त करना बहुत आवश्यक है और उस दृष्टि से यह एक बड़ा भारी सवाल है और उसी सवाल ने मुझे इस बात के लिये लाचार किया कि मैं उनके सम्बन्ध में इस बिल में कौन २ सी बातें हैं उनको जरा देखूं । मुझे इस सम्बन्ध में बड़ी भारी मायूसी हुई जब कि मैं ने इस बात को देखा कि सरकार ने उन फारेन कम्पनियों को वह तमाम रिआयतें दे रक्खी हैं जिन रिआयतों की मुस्तहक इस देश की कम्पनियां नहीं हैं । मैं सेलेक्ट कमेटी के मेम्बर साहबान से दरख्वास्त करूंगा कि फारेन कम्पनियों की रिआयतों के सम्बन्ध में इस बिल में जो २ बातें दी गयी हैं उन बातों के ऊपर वह जरा गौर फरमायें और अगर हो सके तो उन रिआयतों को इस देश की कम्पनियां जिन्होंने इस देश की सेवाएं बहुत दिनों से की हैं उनसे ज्यादा रिआयतें उन विदेशी कम्पनियों द्वारा उपभोग करने का मैं कोई ज्यादा सबब नहीं देखता हूं। इसीलिये मेरी राय में अगर सेलेक्ट कमेटी के साहबान उन धाराओं को जो ५५० से ५६८ तक चली गयी हैं उनके बारे में विचार करें और उनको कम करने की बात सोचें तो अच्छा होगा ।

[श्री· के० सी० सोंधिया]

तीसरी बात मैंनेंजिग एजेंसी सिस्टम के सम्बन्ध में हैं और मैंनेंजिग एजेंसी सिस्टम के सम्बन्ध में मैंने काफी विचार किया तो मुझे मालूम हुआ कि इंडस्ट्रियलाइजेशन का हव्वा जब तक हमारे सामने हैं तब तक मैंनेंजिग एजेंसी सिस्टम से हम बच नहीं सकते, क्योंकि इस देश में इंडस्ट्रीज को चलाने का और साधारण आदमियों से पूंजी एकत्र करके उसे इंडस्ट्रीज में लगाने का बहुत कम लोगों को अनुभव हैं और जिन लोगों को अनुभव हैं वह उससे काफी लाभ उठाते हैं लेकिन तो भी मेरी समझ में जब कम्पनी शुरू हो या न हो उसे फायदा होता हो या न होता हो लेकिन ५० हजार रुपया सालाना उसके सिर पर मैंनेंजिग एजेंट का शुल्क रख देना यह गैरवाजिब हैं, इसलिये जब तक फायदा न हो तब तक मैंनेंजिग एजेंट को इतनी भारी फीस का दिया जाना मैं किसी तरह भी मंजूर नहीं कर सकता ।

चौथी बात यह हैं कि इस मैंनेंजिग एजेंसी सिस्टम के सम्बन्ध में यह जो पहली टर्म पन्द्रह वर्ष के लिये होना हैं और फिर १०, १० साल के लिये मैंनेंजिग एजेंट का टर्म एक्सटेंड होना हैं, इस तरह का कंट्रैक्ट होना गैरवाजिब बात हैं । इसके पक्ष में यह दलील दी जाती हैं कि पन्द्रह वर्ष का ठेका उनको इसलिये दिया जाता हैं क्योंकि शायद बहुत सी इंडस्ट्रीज ऐसी हो सकती हैं जिनमें पन्द्रह वर्ष से पहले फायदा न दिखाई दे, संभव हैं कि वे कम्पनियां पन्द्रह वर्ष के पहले फायदा न उठायें, तो इसमें मैंनेंजिग एजेंट्स लोग क्या करेंगे और उनको कैसे फायदा हो सकेगा, इसलिये पन्द्रह साल का ठेका देना वाजिब माना गया हैं और फिर बाद में दस, दस साल के लिये एक्सटेंशन रक्खा गया हैं, मैं समझता हूं कि यह समय कम किया जाना चाहिये और मैं इसके सम्बन्ध में भी आपसे गौर करने के लिये निवेदन करूंगा ।

इसके सिवा रेजोल्यूशन के बारे में यह दावा किया गया हैं कि पहले की अपेक्षा शेयर होल्डर्स की अब काफी वुकत्त कम्पनी के मैंनेजमेंट में हो सकेगी, मैं इस बात को नहीं मानता हूं । इसलिये नहीं मानता हूं कि ७५ पर्सेंट से ज्यादा होने पर स्पेशल रेजोल्यूशन पास किया जा सकेगा । अब स्पेशल रेजोल्यूशन जो हैं जिसके मुताबिक मैंनेंजिग एजेंट को हटाया जा सके या जो और दूसरी कम्पनियों में जो मैंनेज करते हैं उसमें इस खास कम्पनी का पैसा लगा सकें सिर्फ ७५ फीसदी शेयर होल्डर्स की राय आने पर, यह गैरवाजिब हैं, इसको ८० या ६० परसेंट तक ले जाना और उसी की स्ट्रेंग्थ पर स्पेशल रेजोल्यूशन का पास होना यह मुझे वाजिब समझ में नहीं आता हैं, इसलिये इस सम्बन्ध में भी मैं प्रवर समीति से आग्रह करूंगा कि वह इसको देखें । मैंनेंजिग एजेन्ट्स लोग या डाइरेक्टर लोग अपनी जिन कार्रवाइयों के कारण इतने बदनाम हैं कि इस बिल के एक्ट बन जाने के बाद वह इस के मुताबिक कुछ कम कर सकेंगे या नहीं, इस बात का दावा न तो इस बिल के सम्बन्ध में जांच करने वाली कम्पनी ला कमेटी ने ही किया हैं और न हमारे फाइनेन्स मिनिस्टर साहब ही इस बारे में कुछ इत्मीनान के साथ कह सके हैं । यह बात जरूर हैं कि जब तक प्राइवेट सेक्टर हैं, और प्राइवेट सेक्टर के द्वारा हम इन्डीस्ट्रियालिजेशन करना चाहते हैं, तब तक यह एक ऐसा कड़वा घूंट हैं जिसे हमें अपने गले के नीचे उतारना ही पड़ेगा । लेकिन तो भी नैंशनलाइजेशन के लिये हम आज तैंयार नहीं हैं और वर्षों तैंयार नहीं हो सकेंगे, इस बात का प्रत्यक्ष सबूत यह हैं कि जिन उद्योगों को सरकार ने अपने हाथ में लिया हैं, उन का इन्तजाम बहुत बुरी तरह से किया जा रहा हैं, इस लिये नैंशनलाइजेशन की बात सोचना अभी बेकार हैं ।

मान्यवर सभापति महोदय, यह बातें हैं जिन की तरफ मैं प्रवर समीति का ध्यान आकर्षित करना चाहता हूं । मुझे विश्वास हैं कि भले ही प्रवर समीति उन में कुछ थोड़ा बहुत सुधार कर सके, लेकिन यह बिल जैंसा हैं, अधिकतर

वैसा ही पास होगा, और जो प्राइवेट सेक्टर का भूत हमारे सिर पर सवार हुआ है उससे छुटकारा पाना नितान्त दुर्लभ मालूम होता है। आज प्राइवेट सेक्टर वाले लोग इस बात को कहते हैं, बड़े २ मैनेजिंग एजेन्सी हाउसेज और पूंजीपति लोग इस बात का दावा करते हैं कि वह इस देश के आदमियों की पूंजी को अपने उद्योगों में लगाते हैं और इस प्रकार से वह देश की उन्नति कर सकते हैं, लेकिन मेरी समझ में यह आता है कि इन्डस्ट्रियल फाइनेन्स कारपोरेशन, डेवेलपमेन्ट कारपोरेशन और नहीं मालूम कितने कार्पोरेशन हमारी सरकार खोलती जा रही है और उन में से वह उद्योगपति मनमाना धन अपने उद्योगों के लिये ले रहे हैं तथा उन का इस बात का दावा कि वह लोगों से पूंजी एकत्र करते हैं बहुत कमजोर होता जा रहा है। इस लिये जब वह लोग अपने काम को, जो कि पूंजी एकत्र करने का वह पहले किया करते थे, आज करने में समर्थ नहीं रहे हैं तो कोई वजह नहीं दिखती है कि उन को इतने बड़े २ मुनाफे कानून के जरिये से दिलाये जायें। इस लिये, मैं समझता हूं, इस सम्बन्ध में प्रवर समिति को और हमारे फाइनेन्स मिनिस्टर साहब को और ज्यादा ध्यान देने की आवश्यकता है।

इन चन्द विचारों के साथ मैं इस बिल का स्वागत करता हूं।

Shri U. M. Trivedi (Chittor): The discussion of the company law has been somehow or other centred only round the managing agency system. Under our present economic structure, it is not possible to do away with the managing agency system.

I should certainly congratulate the Government for the trouble they have taken in bringing the Bill before the House. Some hon. Members, in a most vituperative language, have tried to run down the provisions of the company law and attacked the very principles of the company law. They have said that we must scrap all this and do away with it completely, and have complete nationalisation. It might be an ideal, perhaps fitted to some particular type of people, living in a particular society, with a particular background. I do not think that it does apply to the Indian conditions or the conditions in this country. We are not yet prepared to reduce ourselves to slavery. We want that our employees should not be rendered mere serfs, and if we want democracy to work, it is fit and proper for us that the private sector of our economic life should not be done away with.

With these few remarks, I shall come to the discussion of the draft Bill. I note that in some cases, the drafting has been either copying of what was already before, or clumsy more or less.

Looking at the definition clause, I find that the words 'trading corporation', which have a very important place in the company law, are not defined there. On the contrary, we are left to look into the Constitution for a definition of 'trading corporation'. When we look at the constitution, we still find that there is the fallacy of begging the question. The 'trading corporation' is nowhere defined. This is very important and it should be well defined.

Coming to the question of putting some prohibition on the formation of companies, on the formation of associations and on the number of people who could go and form associations or companies, I wish to say that the prohibition is merely of a negative type. It creates difficulties at many places. Mere prohibition should not do. The penalty, not in the sense of a criminal liability, but in the sense that those who do not abide by this provision of law should have some handicap placed against them on their economic interests, is not enough. It is not enough to say that so many persons should not form associations. It should be declared that any such formation shall be void, all the transactions entered into by them shall be void and that they shall not be allowed to enforce any contractual relations that they may have entered

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into. We have some provisions of this nature under the Partnership Act. I urge that a similar provision must be made in this Bill.

Dealing with the memoranda question, time and again complaints have been made that in the memoranda—although the company may be floated and it might be a spinning and weaving company or a company dealing with cotton or with jute—it is described that you can borrow, can lend money, can buy land, can sell land, can mortgage land etc. All these things should properly be looked into, because it is these things that generally land companies in difficulties and so there should be some check imposed on these various items which are put down in the memorandum. Again. I would urge that the words "trading corporation' must be properly defined and the Select Committee will do well to look into the provisions under clause 11.

I find that we are still at the old English law about the use of the word 'limited'. I see no propriety for keeping or preserving in this law the provisions of clause 21. Why is the provision made, namely, that the Government shall have power to dispense with the word 'limited' in the case of charitable associations? What is wrong there? Why are we afraid of allowing the use of the word 'limited'? When you put down so many safeguards and other provisions for revoking this particular type of licence, which is to be granted, why is section 21 still kept there? There is absolutely no charm in these days for not allowing this word 'limited' to be appended even to a charitable association, and I request that the Select Committee may kindly go into this and re-draft this clause entirely.

Then, a good deal of cheating is practised by the Head Office and the Registered Office of a Company being at two different places. Technical objections about rules, notices and other things are being raised by such companies by putting down on their letter-heads, their head office in one place and registered office in another place. A definite provision should be made to the effect that the Registered Office of a company should not be different from its Head Office. I am sure the Select Committee will do this.

I would in this connection like to draw the attention of the House to the discussion we had in this House last session in connection with the Banking Companies Bill. If a Director or a Secretary or officer of a Banking Company defaulted, or did a particular thing, we made such acts punishable heavily. I well remember we had a lengthy discussion about it and we made all those offences cognizable. Here in this particular instance I find that cheating is cheating fraudulant actions are fraudulant actions, no doubt, but what do clauses 55 and 56 provide? Though imprisonment up to five years is provided for, yet all these offences are kept non-cognizable. Why should special consideration be given to these cheats? If a director of a banking company is to be hauled up for all these delinquencies, why not a director of a company? A director of a company who is always in a fiduciary capacity to the shareholders, should not be dealt with differently from a director of a banking concern. I request the Select Committee to pay due attention to this provision.

Coming to the provisions relating to managing agency, I find that an attempt is being made to limit the number of years for which the managing agent may derive the benefit of his exertions. But one thing is conveniently forgotten. The managing agency is the result of a personal effort of a particular individual and the relation between the managing agent and the company is always a personal one. It is a personal contract. But we find that in practice whenever an agreement for managing agency is entered into between the managing agent and the company the first clause provides: "This agreement entered into by such and such person on the first part and the company on the second part provides like this: that the first part, the managing agent, includes his heirs, successors and assigns". I fail to understand, when this particular provision is being recast, why this assignment question is still accepted. A personal relation is a personal relation; a personal contract is a personal contract a personal contract of such a nature which a managing agent secures for himself for having rendered some service to a company at the initial stage should not be of such an assignable nature. This assignment takes away from it the personal position of the managing agent, and if he is not able to render those services, or continue to render those services, or derive the benefit for himelf of those services, this question of assignment must be done away with. Although there is a provision that the transfer by a managing agent will only be accepted by a general resolution, I say that this provision should be done away with; or there must be a positive prohibitive provision incorporated in the Bill that such an assignment should not be allowed in law.

I also request that while dealing with the managing agency system the Select Committee will do well to look into the very good work which the system has done in places like Ahemdabad. Hon. Members may certainly have come across managing agents who may have acted to the detriment of the country. But sweeping generalisations should not be made on that ground. I would suggest that the following assertion of the Ahmedabad Mill-owners' Association may be looked into in redrafting or in overhauling any of the clauses relating to the managing agency system (552-568) in the present Bill.

> "The close attachment between the industry and the managing agents is sought to be threatened which will bring about complete dislocation in the industry. The managing agents finance the industry in their initial stages and at times even staking their personal credits even manage to get finance on their personal property in times of need. The proposed amendment regarding remuneration will kill all incentive and initiative to greater production and the managing agents would simply become mere mercenaries devoid of all interest in the concern."

The Committee, in their consideration of this very important and valueable institution, should not be actuated by certain theoretical propositions put forward by certain individuals whose knowledge of the system is derived from the books they have read on the subject.

Shri Debeswar Sarmah (Golaghat-Jorhat): Mr. Chairman, before I make my submissions on certain clauses of this Bill, I have to confess to a feeling of being disturbed in my mind by certain remarks made by the hon. Minister for Commerce and Industry in the earlier part of his speech wherein he sought to educate us on the policy and the objective of this Bill. I understood him to have said that it is no part of the objective of the Company Bill whether capital would be concentrated in a few hands or it will be distributed among many. That is not the way that we understand the objective of the Bill to be; that is not the way that our Government from time to time express their social objectives in various legislations. Of course, it is not my point that every piece of legislation should or could try to tackle the problem whether the gap between the rich and the poor should be lessened, or that capital should remain concentrated in a few hands or otherwise. Admittedly company law deals with a considerable sector of production and distribution, and as such it is closely connected with the problem as to whether capital will be concentrated in a few hands or it will

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be distributed amongst a large number of our countrymen, as large as it may be. If what he expressed is the view that the hon. Minister for Commerce and Industry takes on such an important piece of legislation, one can only request him to think over and search deep down into his heart as to whether he fits in with the present scheme of things envisaged by the congress party.

Coming to the Bill itself, we find provisions for promotion, management and for winding up of Companies. Unfortunately, attention has not been paid to one aspect. It is the transfer of Companies lock, stock and barrel. Undoubtedly labour welfare is one of the accepted objectives of the Company Bill, as we find it stated in the Company Law Committee Report at page 12: it runs as follows: 'The policy of labour and other personnel in the matter of production'. We read about this at page 12 and they are reproduced in the other chapters. They have considered to what extent it is possible to adjust the structure and methods of the corporate form of business management with a view to weaving an integrated pattern of relationships as between promoters, investors and the management, so that—I refer to clause (c) "—the interests of creditors labour and other partners in production and distribution may be duly safeguarded." I underline labour in this context. We find, particularly in our part of the country, companies are transferred totally. What happens with such transfers? The Reserve fund or the depreciation fund which was built up by the sweat of labour in those companies—there is no dispute about it and no impartial observer can have a different opinion about it—is taken away by the vendor company and vendee company does not get it. Then when the vendee company or an individual takes the concern in its entirety, he victimises the workers—the employees—in that concern. I submit that when this Bill goes to the Select Committee, the hon. Finance Minister and the hon. Members who constitute the Select Committee will keep this in view and will, I hope, try to insert some sections which will safeguard the interests of the concern as a whole, the property as a whole as well as the workers in that concern. It cannot be disputed that this is not outside the scope of the Companies Bill. So, my first submission is that a few sections should be inserted or a miscellaneous chapter—you may call it whatever you like—might be inserted to see that the interests of the workers and the reserve fund are safeguarded when companies are transferred or change hands so that the interests of the workers and labourers may not suffer.

I would like to invite the attention of the hon. House to another point. In those companies which belong to the foreigners or which are registered outside India, I submit there should be provision at least for one director of the company to be Indian. The Company Law Committee itself has stated that we have precedents in the United States and Switzerland Company legislation in this respect. The General Corporation Law in the State of New York provides that "the business of a corporation shall be managed by a Board of Directors at least one of whom shall be a citizen of the United States and a resident of that State". Similarly, the Swiss legislation lays down that "the sole director of a company or if there are more than one director a majority of the directors should be of Swiss nationality ;...... violation of this law may give cause for judicial dissolution".

The Company Law Committee discussed this aspect but since it related to high policy of the State, they did not go into this matter. I for one fail to understand as to why in India we could not incorporate into this legislation a provision to the effect that at least one director of the foreign companies should be an Indian. What is there which prevents us from incorporating such a provision? We have good examples; we try to copy certain provisions of the statute of New York; we are also inclined to take our model from the Swiss constitution. I hope that this aspect of the matter will be taken into consideration by the Select Committee and by the Finance Minister.

From a little personal experience, I say that when the matters relating to labour, the cost of production of tea and ancillary matter were gone into in the State of Assam in 1938 and this humble-self was one of the members of the Enquiry Committee, the progress of work of the Committee was practically suspended, it ceased to function for all practical purposes when the manager of a tea estate inadvertently showed his balance-sheet which was kept in his drawer. The Chairman who happened to be an ICS officer, basking at that time in the favour of the foreign Occupation Power, dislocated the committee so that it could not function. The balance sheet would disclose matters which the Foreign Company would not like. Then again we heard of a talk of a committee being appointed long ago to go into the cost structure of tea and recently a three-man committee was appointed to go into the cost structure of production of tea. I apprehend that this committee will not be able to find out that there is considerable inflation in the cost structure of production by the foreign companies. If at least one Indian director is there in the company, he will at least have a knowledge as to how these things are manipulated, even though he may not be able to give shape to the course of things in the Company. This is my submission and I would earnestly request the Members of the Select Committee to take this matter into consideration and try to incorporate a section in the Bill so that one Indian at least may be there on the Board of directors of the foreign companies who have a place of business in India.

The third point, I shall refer to is the managing agency system. This is a vexed question and from the arguments advanced from the various sides one thing has puzzled me as it should have puzzled many others who have had not much insight into matters financial. The various Tariff Board reports,—the Fiscal Commission report, the Planning Commission report—in fact every one had said something derogatory about the managing agency. We find that in no other civilized country except India the managing agency system is prevalent as it is in India. If that is so, why should we still cling to the managing agency system? Can we not do away with it? How other civilized and industrialised States are faring well without managing agency system? It is said that in India there has not developed a capital market. Sir, it is a vicious circle. So long as the managing agency system continues, can we expect to build up a capital market. I think it is futile to expect that. It is also said that managing agency system arose out of history, geography and economics of India. Admittedly history has changed. Geography has also changed with the improvement of communications, with the improvement of air travel, radio and wireless communications. Geography cannot, therefore, play any substantial part in these days. Now, we in India want to change the old feudalistic economy. Very briefly the origin of this managing agency system is: when the governance of India was transferred from the East India Company to the Crown, British investment poured into India, and the investors were not able to look after their investments here from that long distance. Therefore, the old East India Company people who were in India and who knew about India, managed the affairs and the managing agency system started and grew. We are carrying on that archaic system even now. I hope, Sir, that the Select Committee will take this matter into consideration and amend Section 311 in such a way

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that by the 15th of August 1964, the managing agency system in India will be no more. Here, under this section 311 we find that existing managing agencies are to go giving place to new ones in accordance with this Bill or Act. I once again like to express my hope that the Select Committee will amend the clause in such a way that by the 15th of August 1964, there will be no more managing agency system in India. Let us have this time of ten years to devise ways and means to manage affairs of the company and to pay off these managing agents, so that we may come into a new order of things in ten years. I commend this to the serious consideration of the Members of the Select Committee.

Lastly, I have to say a few words about control. As regards control, most of us who have tried to understand a little, are of the divided opinion in that respect, When we think of a Corporation, atonce the affairs of D.V.C. comes to our mind. It is not only that the D.V.C. has bungled and wasted crores and crores. but the other day when two Members of the Estimates Committee went to see and examine things for themselves on the site, the authorities of the D. V. C. did not have even the good manners to extend them the usual courtesy that is expected by a gentleman from another gentleman. When we talk of the wastage of crores and crores of rupees, committees are set up and committees come up in a way to white wash it. The other side of the picture is equally gloomy. The other day we found that the Central Tea Board Act was passed and the Government took upon themselves to nominate certain Members. We found that to a considerable extent, apparently the qualifications of the nominees showed that they knew nothing on this subject. Perhaps the hon. Minister for Commerce and Industry thought that they would be able to bring in an open mind because they new nothing about the subject in which they were put. Therefore, we find ourselves between Scylla and Charibdes. but, ultimately, I submit that if there is to be an inspectorate, the Government inspectorate would be the best under the present circumstances. In that case the Parliament will have a greater control.

Shri Kasliwal: Sir, during the last four days, long arguments have been put forth on the floor of the House on the Bill that has been under discussion; arguments both for and against the investors, for and against the managing agents, how effective control of the investors has to be exercised; how the shareholders have to be safeguarded and so on. All these arguments have been raised and it is not my object now to repeat any of those arguments. I need not also address you on another matter relating to accounts because the Finance Minister has assured that, as far as possible, disclosures will be made in the balance-sheet by which the interests of the shareholders would be safeguarded.

Then, Sir, there is one matter to which I would like to draw the attention of the Finance Minister and of this House, because it seems to me that, that point has hardly been touched upon—of course, subject to correction. I refer to the point relating to winding up. In the liquidation proceedings it has been found—and the matter has been represented to the Company Law Committee also—that these proceedings take a very prolonged and procrastinated shape with the result that all the money which might otherwise go to the shareholders is swallowed up by these liquidators. These liquidators have a very peculiar tendency. They get into collusion with the managing agents, enhance their remuneration, lose their independence and in a way they virtually become the tools of managing agents. For a long time these proceedings simply continue. It is not possible for the shareholders in any way to take any very great interest and the result ultimately is that most of the money is completely lost which goes entirely in the form of fees for the liquidators.

I know of some companies which went into liquidation, where had it been possible for the proceedings to be terminated expeditiously, probably eight annas in the rupee would have been distributed to the shareholders, but they managed to distribute only one anna in the rupee and the balance of seven annas simply went into the pockets of the liquidators who in collusion with the managing agents prolonged the proceedings as I said before.

The Company Law Committee had made some suggestions and one of the suggestions is that every High Court should have a liquidator appointed. So far so good; but there is no provision in the Bill which would show that it shall be the duty of the court liquidator to terminate these proceedings expeditiously. I wish that when the Select Committee meets, it will take this point into consideration and make some provision so that these proceedings of liquidation are terminated as quickly as possible.

[MR. DEPUTY-SPEAKER *in the Chair*]

Sir, I need not take a longer time of the House because the hon. Finance Minister in his speech himself said that if he felt or if the Select Committee felt that there were not sufficient safeguards for the social interests, he would be prepared to accept amendments without tilting the scale on any particular side.

There is another point to which I would like to refer. There are one or two particular things which are to be found in the Bill. They are 'associate of the managing agents' and 'competitive business of the managing agents'. According to managing agents these two provisions are unnecessary restrictions on business and they are of the view that if these restrictions continue it will be very difficult for the managing agents to work smoothly. There will also be shortage in capital formation and many other things. They seem to point out that it will not be possible to work smoothly the entire administration of companies in which these restrictions are placed. This is a matter which, I believe, the Select Committee will take into consideration. I say it for this reason, that the hon. Minister, Shri T. T. Krishnamachari said yesterday that we have accepted for the moment that the managing agency system should continue. We have accepted the validity of the argument that for some time the managing agents are necessary. If that is so, this is a particular point relating to 'associate of managing agents' and 'competitive business gone into by managing agents' to be considered by the Select Committee.

There is only one small point which I want to make and then I will close. That relates to the authority which is now proposed to be vested in the Central Government. My hon. friend Shri Debeswar Sarmah who preceded me, did say a bit of it. What I want to say is, that if so much of authority is being vested in the Central Government, what is the guarantee that the employees of the Central Government who deal with these matters will not make mistakes. What is the guarantee that these people will not meddle in the affairs of the company in such a manner that the smooth working of the companies is not impaired. This also is a point which I hope the Select Committee will take into consideration.

I do not want to take any more time of the House, and I close.

Mr. Deputy-Speaker: There are only three minutes left. I want to call the hon. Minister at eleven o'clock. Will Shri Samanta finish in five minutes?

Shri S. C. Samanta (Tamluk): Yes, Sir.

Mr. Deputy-Speaker:. Very well.

Shri S. C. Samanta:. I heartily support the amendments and the consolidation of the Companies Bill. It will be a very hard task for the Select Committee.

.I wish to place an instance before them. Here, in the heart of the Delhi city, which is the capital of India, there is one company called the Indian Union Finance Corporation, which is functioning here. This company does

[Shri S. C. Samanta]

money lending business. It is a registered body. They are functioning according to rules. I would request hon. Minister and the Select Committee to go into this matter. This Corporation issued an advertisement in the *Ananda Bazar Patrika* in West Bengal, only in that paper and said that people may borrow up to Rs. 1,500 from the company on personal guarantee. Some people applied. In the first instance, they were informed that they should send Rs. 10 for the functioning of the company. See the fun. One is asking for a loan. Before he is granted the loan, he is asked to send Rs. 10 by money order. I have no time; but it is an interesting case. One person sent some questions. So his case was disallowed. He was informed that the loans were arranged strictly on terms fixed by the Corporation. This Corporation receives money orders first and then they say, for some reason or other the loans will not be granted to those who have applied. There are so many persons who are being cheated in this way. These organisations and companies which are functioning in the heart of the Delhi city should be looked into and the Finance Minister and the Select Committee should find out what other remedies should be added so that such business may not be carried on.

I would suggest one thing. There is so much discussion, so much argument about managing agencies, about directors and so on. I would request the Committee to consider whether a reserve fund can be created by law, whether there can be a provision in the law whereby every company may be made to pay some amount into the reserve fund so that the problem of money which stands in the way of further progress of the country may be solved.

11 A.M.

Shri C. D. Deshmukh: My task has been greatly lightened by the massive contribution to the debate that was made by my colleague the hon. Minister for Commerce and Industry. He is the person who is affected by the failure or success, as the case may be, that we secure in the administration of the measure before the House and therefore any observations that he has made deserve the fullest consideration of the Select Committee.

The first point that I should like to dispose of is the point made by the hon. Member for Pudukkottai. He complained......

Shri S. S. More (Sholapur): Would it not be better if the names are mentioned? We do not get any idea by the mention of the constituencies.

Shri C. D. Deshmukh: Shri Vallatharas, Member for Pudukkottai....

Mr. Deputy-Speaker: Hon. Members also must try to familiarise themselves with the constituencies.

Shri S. S. More: That would be a great strain on our memory.

Mr. Deputy-Speaker: I am not saying that names ought not to be given. Gradually we must try to replace this practice by the other one.

Shri S. S. More: Then, you will have to reduce the number of Members.

Shri C. D. Deshmukh: He complained of the inadequate publicity for the report and said that the Members have not been supplied with the views expressed on the proposals now embodied in the Bill which was being considered. It is not the practice to put every sort of material before the House. The volumes containing the evidence that was tendered before the Expert Committee are available to hon. Members. In any case, in my speech, I had fully explained the different stages through which the consideration of this matter had proceeded before the present Bill was introduced in Parliament. Having regard to the history of this measure and the different stages through which the consideration of this subject has passed, it would really have been impracticable to provide the hon. Members with copies of the hundreds of documents that have been examined at one stage or other by the Company Law Committee or by the Government. Anyway, for the information of hon. Members, I would add that as early as 1949, a press note with a memo. containing the principal proposals for the revision of the Indian Companies Act had been issued by the then Ministry of Commerce for eliciting public opinion on it. Copies of the memo. were freely sent to all those who asked for it. After the Company Law Committee submitted its report in March, 1952, again, wide publicity was given to these recommendations in a press note issued shortly afterwards which contained a summary of the recommendations made by that Committee. As usual, copies of the report were distributed to the press and were made available in all Government book depots and agents for Government publications. Then, opinions on the report of the Company Law Committee were specifically asked for from the State Governments, Chambers of Commerce and Trade Associations and copies of these documents have been placed in the Library of the Parliament for the use of hon. Members. So, I think the House will agree that we have taken all practicable steps we could take to ensure wide publicity to the recommendations of the Committee. The Bill itself was published in the *Gazette of India*. I do not honestly believe that having regard to its complicated nature we could have elicited any further useful views on it, so far as the public are concerned, on whose behalf the hon. Member was speaking. In any case, no other hon. Member has apparently shared his views. I do not therefore think that it is necessary now to lose time by circulating this Bill, or that even on substantial grounds, it is necessary to do so.

The next question is what is it that we are discussing here today. It is a motion to refer the Bill to the Select Committee which means that the House is being asked whether it approves of the principles of the Bill. The all-pervasive principle of the Bill is that the present company law stands in need of amendment. The Speaker, when he gave his ruling, made some illuminating observations on the need for a modernised company law. That being the case, so far as this particular motion is concerned, I do not think that there is any controversy. Therefore, all the observations that have fallen from the hon Members are observations which will be for the consideration of the Select Committee.

I have no doubt that they will receive the most serious consideration at their hands. My colleague threw out a suggestion for the Select Committee to consider, that it might split into sub-committees. That is a matter for the Select Committee to decide when it decides its own procedure, and I do not think it is necessary for me to add any observations of my own on that suggestion.

Certain hon. Members have complained that this is only a copy of the English Act. Now, I do not really understand the force of this criticism. The system that we are working has been taken from the British. They themselves had to amend the law, I think in a space of about 19 years. The Cohen Committee was appointed in 1945, and they amended the Act in 1948. Our Act was of 1913 which we amended in 1936, and it is only natural that from time to time over periods we should be comparing notes. But, Sir, I could give many examples where our law differs in detail from the English law. If hon. Members would look at clauses 44, 79, 80, 81, 84, 111, 192, 197, 219, 237, 240, 243—all important clauses—252, 253, 254, 263, 270, 278, 280 and so on and so forth, these are clauses which do not occur in the English law and which, therefore, are not based on the English Companies Act of 1948. Now, so far as the language is concerned, when we are dealing with the same subject-matter, it is almost inescapable, having in view the history of our own company law, that our language should flow into the same kind of moulds. But I do not think that that is open to any objection. In any case, as some hon. Members have admitted, the language of the English statute itself

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is not so complicated as that of the Estate Duty Act. Therefore, I think as we go on in the Select Committee to deal with the draft in detail we can consider whether we can make our own improvements in expressing our meaning.

I might add here, incidentally, that the U.K. Act was passed by a Socialist Government in 1948. That is a point of some importance which has a general bearing on much that has fallen from hon. Members here. And that really brings me to the pith and substance of this Bill. Many hon. Members have complained that the present Bill does not go far enough. Principally the hon. Members from Calcutta North-East and South-East, that is to say, Shri H. N. Mukerjee from North-East Calcutta, and Shri Sadhan Gupta from South-East Calcutta although they come from north and south, have seemed to agree on many particulars here. Their main complaint is that the scope of this Bill is too restrictive, and that we really have not done much thinking. My retort would be that our thinking has advanced very much farther than theirs. For instance, they want that this Bill should provide for almost everything that they attach importance to in the economic policy of the country, control of foreign investments, capital issue control, the prevention of British competition, the prevention of concentration in the hands of industrialists, that is to say, prevention of monopolies or cartels, then the threat to small-scale industries—then that we must provide for bank finance, that we must provide for industrialisation in the rural areas, that we should ensure that the petrol and other companies are driven out and that we should also see that the employees are not cheated—apart from other suggestions which, I think, are germane to the purpose of this Bill. Then the other hon. Member also made suggestions. He also referred to foreign investments. Then he has referred to the necessity of an overall planning of investments, the complaint being that if you plan on the basis of private enterprise, then there are likely to be disconcerting increases and decreases in the volume of investment. He also wants that something should be done about the remittance of profits and excessive imports. Now, all these are matters which are of relevance in discussing the general economic policy of Government, and certainly the views that the hon. Member has expressed must be taken into consideration when Government makes up its mind. But I doubt whether with the best of intentions the Select Committee will be able to introduce all this material into this Bill which already runs into 612 clauses; possibly you might have to add another 100 clauses or so, and then I think the House can very well complain that we have really now....

Shri Gadgil (Poona Central): It might go up to a thousand.

Shri C. D. Deshmukh: It might—one does not know. But then I should say that we really would have gone very far from the main gist and the substance of this Bill. Therefore, I think we ought to confine ourselves to the narrow conception of the scope of the Bill, namely, how to regulate the affairs of these voluntary associations of individuals for the purpose of earning a profit in the industrial or commercial field.

I shall deal with some of the points which fall within the scope of this Bill later on when I come to them. The majority of Members, I find, consider that the Bill is about right, but that it needs various amendments. Now that, as I said, is a matter which the Select Committee will have to consider and I do not think as regards those who are in the Select Committee including Government Members, it is expected that they would stand hard and fast by anything that they have proposed. This does not mean that we shall yield position unless we are convinced that there are good reasons for doing so.

Shri A. P. Sinha (Muzaffarpur East): Obviously my appreciation has frightened you!

Shri C. D. Deshmukh: In regard to these details, I think it would be best to deal with some points because those are the points which the Select Committee will have to consider, including the major issue of whether the managing agency system should be mended or ended. Now, there was a suggestion—I dispose of it because it is a small one—by the hon. Member for Thiruvellah (Shri Matthen) that we should consider the question of shares of no par value. His reason for suggesting this was that this had been examined in the U.K. by a Committee over which Sir Montagu Gedge, formerly a member of the Cohen Committee, presided. This Committee recommended that the English Companies Act, 1948, should be amended to permit of issue of shares of no par value. Now, so far as the actual working of the joint stock companies is concerned, the issue of shares of no par value does not affect it. What it does affect of course is transactions in the stock exchanges.

Now, apart from the fact that we have still to bring before the House a measure for the regulation of stock exchanges, in this country, there has been so far no demand for such shares. As far as one can see, there does not seem to be any necessity for them. It seems to me that the introduction of such shares would provide a needless element of complexity in a matter which is already complex enough. In any case, at the moment there does not seem to be any strong case for authorising the issue of shares of no par value.

Then the same Member drew attention to Section 87(B) (C) of the Indian Companies Act requiring that the transfer of the office of managing agents should be void unless approved by the companies in a general meeting. The only important change introduced in clauses 324 and 325 of the Bill, which deal with the subject, is that a special resolution instead of an ordinary resolution is now required for the transfer of office by a managing agent. This is one of the new provisions which really takes the place of the existing temporary amendment Bill, which requires the approval of Government to any changes in managing agencies. We have had, in administering the present law, cases—at least one celebrated Calcutta case—before us and in dealing with that, it struck me that I should try out, so to speak test, the provision that is contained in this behalf in the Bill. I therefore made it a condition of my approval that special resolution should be passed. The company had some difficulty in getting special resolutions passed but, finally, they have succeeded in doing so. And, since the condition laid down by me was satisfied, approval to the transfer has been given.

My colleague has pointed out here that there is some discrepancy between these clauses 324 and 325, which deal with the transfers of managing agency or change in their constitution and clause 310 which requires the resolution of the general meeting by ordinary resolution to appoint the managing agent; and therefore it might be possible for a managing agency just to liquidate itself and then reform itself and be appointed by the company concerned. These are matters which the Select Committee will have to consider carefully.

Then the same hon. Member referred to the age of the directors and the number of directorships which a person can hold. Our original proposal was to prohibit out-right all persons over 65 from being appointed directors of a company but that seemed to be taking away the liberties of what we dub as private enterprise. This proposal was. therefore. subsequently modified as in clauses 258 and 259 and although the age-limit of 65 is now retained and a director is not supposed to continue as such or to be appointed as such after he attains

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this age, it is left to the company to decide, if it so desires, to relax this age-limit in the case of suitable directors; and a company can do so by an ordinary resolution. Therefore, I think, it secures the convenience of everyone concerned and I do not think we ought to be carried away by misleading analogies of directors of companies and Ministers and politicians.

Shri Gadgil: More politics in companies now-a-days.

Shri C. D. Deshmukh: After all, you must consider it is an association of private persons.

As regards the number of directorships—that is clause 253—this excludes directorships of various kinds. For instance, private companies which are not subsidiaries of public companies, directorships of unlimited companies, associations not for profit and companies in which such a person is only an alternate director, that is to say, a director who is only qualified to act as such during the absence or incapacity of some other director.

Now, I may mention that the number twenty is much in excess of the average number of directorships held by a person in USA or UK. As the Company Law Committee has pointed out, some continental countries have statutorily restricted the number to a lower figure. And, anyway, the matter is before the Select Committee. If they do not like twenty, they may suggest some other figure and, indeed, they might hold the view that if there are only a few people or bodies, so to speak, who are capable of making a contribution although they hold a large number of directorships, some way might be found by which their contribution could be secured.

Shri Matthen (Thiruvellah): Can the hon. Minister restrict the managing agency directors to one—not to one director—but to a maximum number of one in the Board?

Shri C. D. Deshmukh: I do not understand this. Can I restrict anything?

Mr. Deputy-Speaker: By this law, will the Government care according to the hon. Member to restrict the number of directors under the managing agency to one?

Shri Matthen: On the general Board to one.

Shri C. D. Deshmukh: This is a suggestion; he does not expect an answer on the floor of this House.

Mr. Deputy-Speaker: The House is in possession of the whole Bill.

Shri C. D. Deshmukh: I am only explaining why certain provisions have been made—whatever thinking has been, if the hon. Members will concede—that there has been any thinking up to this moment.

Some hon. Members wanted powers to remove delinquent directors and managing agents. I think it was the hon. Member from Meerut, Shri Krishna Chandra Sharma. Clause 252 imposes certain disqualifications on directors and clauses 315 to 319 provide for the vacation of offices by managing agents when they become insolvents or are convicted of certain offences or commit frauds or breaches of trust or have been guilty of mismanagement of companies entrusted to them. No doubt, this suggestion will commend itself to the Select Committee that power should be taken to remove the directors or managing agents. Of course, under the present temporary amendment law, there is a provision for going to the High Court. But, I doubt, as I said, whether there will be any inclination to vest these powers in Government or any machinery set up by Government.

Then there were suggestions about the minimum remuneration to managing agents in case of absence or inadequacy of profits, the appointment of directors by managing agents the employment of relatives of managing agents and directors requiring the approval of government and the costs of investigation to be borne by the Government. This last suggestion, of course, will again introduce the obligation of recommendation by the President and so on. I do not think these are suggestions which we need consider very earnestly.

Then there was the suggestion by the hon. Member from Nizamabad, Shri Heda, that shareholders should be supplied with whatever information they may ask for from the companies. I should like to explain that the scheme of the entire Bill is to enhance the existing powers of the shareholders but it would be impossible for a company to carry on its business if shareholders were to have access to whatever information they might ask for from the companies regardless of their nature. It may well be that in the interests of the company itself some types of information may have to be withheld from the shareholders.

The Minister of Agriculture (Dr. P. S. Deshmukh): Creating a Parliament of shareholders.

Shri C. D. Deshmukh: That is what it comes to; more sovereign than Parliament itself.

There are other points about safeguarding the interests of the shareholders. We can say that that is the main purpose of the Bill and a series of provisions have been made for intervention by Government or the court for the purpose of safeguarding the interests of the shareholder, who is not in a position to hold his own—I think that is generally admitted—against the management or the majority of shareholders. There is the power of the Registrar to call for information—clause 219; there is the power of the Government to investigate into the affairs of the company on the application of the shareholders or on the Registrar's report or of its own motion—clauses 220 and 221: power of the Government to investigate into the affairs of other companies managed by the same managing agents, clause 223; power for bringing legal proceedings against the directors, managing agents and officers of the company in case of prosecution for an offence for which they are criminally liable, clause 226; and finally, the provision, to which I have already made a reference, that the power of the shareholders to move the court for relief when the affairs of the company are conducted in a way prejudicial to its interests. Two hon. Members—one from North Satara (Shri Altekar) and the other from Ratnagiri South (Shri M. D. Joshi)—urged that adequate provision should be made to safeguard the interests of the depositor. There is some sort of provision and it will be for the Select Committee to take note of what is undoubtedly a very serious evil and menace in some parts of the country, and perhaps at certain periods, as in a post-war period when profits are high and when attractive allurements are held out before the unwary public. It will be remembered in connection with the whole of the Bill that, although there are palliatives against gullibility or greed, there are no permanent cures, human nature being what it is.

Shri D. C. Sharma (Hoshiarpur): Cannot human nature be cured?

Shri C. D. Deshmukh: Not in the short run and not by legislation, but it is a matter of public education. I have no doubt that if we let in the lime-light of truth on the transactions complained against, then, in time, the public will be far more cautious and far more prudent, but at present, the moment one finds that somebody offers a rate of interest slightly higher than that obtainable on Government securities, banks and so on, then people rush and put in their money in that business venture, with consequences very largely disastrous for them.

There were some suggestions about the liquidation procedure by an hon. Member—I think it was from the hon.

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Member for Banaras District—Central (Shri Raghunath Singh). He asked whether it was not possible to simplify the liquidation proceedings. The answer is that it is difficult beyond a certain stage and, further, the realisation of the assets of the company must, of course, await the process of law. The companies in liquidation are not generally in a solvent condition, and the liquidator faces considerable difficulty in finding funds. In order to eliminate all the delay and to ensure close supervision over the work, it has been provided that the liquidator attached to the court should be under the control of the Central Government. This is under clause 411.

Some hon. Members have suggested that clause 492 of the Bill, dealing with the subject of preferential payments in the event of liquidation of the company should be enlarged and tightened up to favour the claims of workers and other categories of persons, such as working journalists. As hon. Members are aware, some priority is already given, in the Press Law, to the 'claim of wage-earners and salary-earners, and the Select Committee will no doubt take into account the observations made by hon. Members in this behalf.

In the Bill now before the House, a further provision has been made to strengthen the position of these classes, and it will have to be considered, but hon. Members should remember that this will involve a careful balancing again of conflicting claims, and whatever decision we may ultimately take, we must take care to see that we do not gravely jeopardise the interests of creditors of the company, for that would be fatal to the growth and development of corporate enterprise in this country.

One hon. Member suggested that the priority in favour of rents and taxes should be waived. That is a suggestion which is completely unacceptable to Government. I think the claims of the State must come first in all circumstances, and, to my knowledge, there is no precedent whatsoever in support of the suggestion that has been made by the hon. Member.

On the merits, we have given workers' organisations the third priority after the claims of the public exchequer and of the clerks and servants of the company, and that, I think, is the usual order all over the world.

Suggestions were made about safeguards in the constitution of the Board of Directors' to ensure the interests of the minority shareholders. The proposal was that a percentage of the directors should be appointed by Government. I am inclined to think that this would be very undesirable, because while Government will be liable to criticism for the acts of directors, they will have no hold over their activities, and if it is intended that Government should appoint their own officers as directors of companies, it will be impracticable, having regard to the personnel at our disposal, to do so on any appreciable scale.

There was a suggestion by one hon. Member that minority shareholders should be represented on the Board of Directors. That was a point which was considered and rejected. This is bound to lead to conflicts in the Board itself and would not be conducive to team work which is essential for the success of every business. I doubt whether that will prove acceptable as a practicable proposition to the Select Committee.

The hon. Member from Hooghly (Shri Chatterjee) made certain points. He sought clarification on some points of detail, which he said, have caused a certain amount of misgiving in business circles. Of course, all these points will require further consideration, and as I said in the course of my speech I am even now receiving representations which I am bound to place before the Select Committee. In this connection, I might refer to the suggestion which you made that I might place before the House my tentative conclusions on some of these representations. The fact is that I have not yet finished hearing these proponents of the changes and I am not in a position to give an indication of how our mind is working. Apart from that fact even if I had in my mind arrived at a conclusion I have no time to place it before the Government which I shall have to do before it is submitted for the consideration of the Select Committee.

The hon. Member referred to clause 80 as limiting the voting rights of preference shareholders. The Government agreed with the unanimous view of the Company Law Committee that it was unfair that preference shareholders should be deprived of their voting rights even when their dividends were in arrears. From the point of view of the equity shareholders whose interests the hon. Member seemed to have uppermost in his mind, I should like to point out that the provision is indeed an advance on the present position inasmuch as at present preference shareholders of many companies have voting rights more or less on the same footing as equity shareholders. The hon. Member seemed to be anxious to ensure that even when their dividends were in arrears the preference shareholders' right to vote should be limited only to issue of dividends. I appreciate the object underlying the hon. Member's suggestion, and it may be that the Select Committee will give some thought to it.

There is clause 231 to which the hon. Member referred. Here again, the powers proposed to be taken would be exercised in exceptional cases and they follow the analogous provision of the English Companies Act but the hon. Member apprehended that the Bill goes beyond the provisions of sub-section (3) of section 172 of the English Act which makes it obligatory for the Board of Trade to order an investigation into the ownership of shares when the requisite number of shareholders apply for such investigation. But in our Bill we have imposed no such obligation on Government.

Then there is clause 243 to which the hon. Member referred which seeks to prohibit certain categories of persons from being elected to the so-called 2/3rd quota of a Board except on a special resolution of the company. The hon. Member's apprehension was that 26 per cent. of the shareholders would have a veto on the rights of the remaining 74 per cent. Now certainly in theory this kind of result could follow in marginal cases. but if one has regard to the average holding of managing agents in the companies which they manage, this result is not likely to follow in the majority of cases. But I am quite prepared to give some further thought to this clause.

Then the hon. Member did not like the restriction which clause 272 imposes on the borrowing powers of directors. These powers are proposed to be limited to the paid-up capital of the company plus free reserves. But these limits can be waived by a special resolution of the company. This clause does not apply to banks or other monetary institutions and is really based on stock exchange practice not only in this country but also abroad which has been accepted by well-reputed companies.

Another hon. member. I think the hon. Member from Satara, made a suggestion—which I have already referred to in this connection—that is to say borrowing from depositors. Now there is this question of loans to directors. Here again the Select Committee will have to go into details. But I should like to dispel any fears that he and people who think like him may have on the subject. It is not our desire to interfere unnecessarily in the business transactions of a company. But we do wish

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to close loop-holes through which company funds may be dissipated. This is one of the points on which representations have been made to me by spokesmen for trade and industry and in due course I shall place their point of view before the Select Committee.

Then, Sir, I come to the question of organisation for administering the law. I am dealing with small points before I come to the major issue of Managing agents. Hon. members asked why I had deviated from the unanimous recommendation of the Company Law Committee for a Central statutory authority in favour of a departmental organisation. I think it is clear from the Statement of Objects and Reasons and my speecb that this is a provisional decision, that is to say, this is the arrangement that we suggest for the time being. without committing ourselves to a decision for the long term. We wanted an authority in any case to take over from the somewhat disperse authority that was partly responsible for the bad administration of the law in the past, and therefore, we had to take it over as a departmental concern. Then, Sir, another more important reason is that under the Temporary (Amendment) Law, there are several matters which are referred to Government for their approval and Government exercise these powers after consultation with a committee, an advisory committee. Now under the present Bill these provisions will —if they stand after discussion in the Select Committee and the later stages —continue for the next three years and therefore the House will see that important powers like transfer of managing agents and so on have to be exercised by Government, which involve considerations of policy. I do not think that unless we have some experience of how the present system is working, it would be justifiable to plump for the other arrangement which has been suggested by the Company Law Committee.

The real problem is the question of personnel. Whether you manage a thing departmentally, or whether you manage it through some statutory corporation, one need not assume that the proper personnel would be available. It is the man and not the machine that matters. You may have all the apparatus of a statutory commission, and yet find that you cannot locate a proper person for guiding its affairs in which case you shall have gained nothing and indeed might have introduced complications; whereas if you manage departmentally, it is much easier to make changes in case such changes are called for. So these are the reasons. why we thought that at the moment the Central statutory authority should be a departmental body. But hon. Members who are Members of the Select Committee will no doubt express their views on this point when the clauses come up for discussion.

Then, Sir, the hon. Member from Banaras Distt.—East. Shri T. N. Singh. asked what provisions we intended to include or suggest for government undertakings organised in the form of companies. There is nothing in the present Bill to abridge or affect the scope or the range of the public sector. This is a matter of industrial policy and not of company law. We have only one clause here (Clause 574 of the Bill) which deals with this matter. But I might tell hon. Members that we are giving thought to this issue and the only reason why I have not brought forward specific proposals of a more elaborate kind is that we have not yet taken any formal decision as Government.

There are two categories of public enterprises to consider: one is where Government holds all the shares; the other is where Government participates. It struck us that it might be possible to make a distinction in regard to the treatment of these two. That is to say, one might possibly define as a government undertaking anything which has a proportion of shares in favour of Government larger than 50: maybe 51, maybe 66, maybe 75. For those certain specific provisions would have to be made in the nature of exemption from certain clauses of the Bill. We have a draft ready which I might be able to place before the Select Committee. Over and above this, it may well be necessary to have legislation to regulate the affairs of government corporations that is to say, corporations set up by Government containing no shares by anybody else. So, it may be that we require this double barrel remedy for regulating these matters.

In dealing with details, I should mention this question of foreign capital and monopoly, whether arising out of the managing agency or arising in other ways. Now, as I pointed out, whether there is predominance of foreign interests, whatever one might say about the historical origin of these things, these are not matters which one can deal with in the company law, because it is an instrument equally applicable to Indian and non-Indian businessmen except of course to certain matters where branches of foreign companies are registered here or are not registered.

Some hon. Members have said that foreign companies should be required to take out registration and licences because under the present rules they do not require any permission from the Capital Issues Controller. Apart from that, our basic object in the Bill is to create conditions under which the company law will be used not so much for the personal aggrandisement of industrialists as for the promotion of an industry and for the economic development of the country. The obligations which we propose to impose on, say, the managing agents will equally apply to Indians and non-Indians.

Whatever may be the personal views of hon. Members on the question of foreign capital, I feel that on consideration they will agree that it is impossible in a measure like the company law to distinguish between Indian and foreign companies, or between Indian managing agents and foreign managing agents. Incidentally, I think it might be worthwhile if at a future date, we had a full discussion on foreign capital because this issue comes up again and again and it has not proved possible to deal with it in any satisfactory way because I do not have the time to dilate on our policy regarding foreign capital.

On the issue of monopoly also, I can only support what my colleague said the other day. Like the problem of foreign capital, that is also an issue of economic policy somewhat outside the scope of the Companies Bill. That is not to say that this aspect does not need consideration. There are many others, for instance, which need consideration, like, as I said, regulation of the stock exchange. Nevertheless, there are provisions in this Bill.—

Mr. Deputy-Speaker: Is it not open, even in the Company Law, to impose qualifications on directors or to say that such and such shall not be appointed officers in the company? I think that might be done. Hon. Ministry may or may not agree but that will arise and will be incorporated. Is it not open for this House, in connection with this Bill, to say such and such persons shall not be in charge of such and such company?

Shri C. D. Deshmukh: It is certainly open for this House but the major question of policy has first to be considered and cleared. That is to say, in our policy announcements of April 1948 and so on, we have stated that no discrimination shall be made. If that hurdle is crossed, of course it would be possible to include anything here. But what I said was that a discussion seems to be called for on that major issue of policy. That policy was laid down in 1948 and it

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has been reiterated again and again. All I meant was that it is unsatisfactory to have to answer this kind of short snaps; it requires a full-dress debate. If one comes to the conclusion that a certain thing is necessary, then there is nothing to prevent us from amending this law at the appropriate time.

Some reference was made to promoters and their responsibilities to investors. The hon. Member from Ambala-Simla Shri Tek Chand and the hon. Member from Banaras Distt. East, Shri T. N. Singh, referred to these.

The known and common method of raising capital is through the issue of prospectus to the intending investors. Under this method the promoter may or may not be the same person as vendor. He arranges the promotion and classification of a business the terms on which the new business is to be established, drafts the prospectus, secures the consent of the proposed directors to act as such and arranges with the under-writers to guarantee the subscription of the proposed issue. The company is then registered and the prospectus is sent for registration to the Registrar of Companies and then published. Very shortly after the publication of the prospectus the "lists" are opened. In other words, the bank authorised by the company to receive applications to subscriptions from the public announces its readiness to accept them. When sufficient applications are received the lists are closed and the company allots shares to the public. The Bill makes many principal changes in the present law on the subject in order to safeguard the interests of ordinary members of the investing public and to protect them against the machinations of unscrupulous company promoters or directors. I shall only refer to the clauses 8, 9, 10, 11, 12, 13, 15, 24, 55, 56, 63 and 67. If during the course of the consideration by the Select Committee, the hon. Members feel that any additional protections are required, their suggestions are certainly welcome in this respect. Now, I come to this vexed question of managing agents. Various animals have been pressed into service in dealing with this matter. Apart from angels and devils, black-sheep, leeches octopus, sharks and vultures were mentioned. But, really the two important animals that matter have not been mentioned—bulls and bears.

An Hon. Member: It is only speculation.

Shri C. D. Deshmukh: It is the plans of the bulls and bears that really give you an indication of the health of a particular economy and therefore one must not jump to certain conclusions from certain instances or personal experiences. Certain hon. Members asked me if I have sufficient details in my possession in regard to the operation of the managing agency system, that is to say, whether there is any element of good in it or whether it is wholly bad. I confess that I have no larger experience in this matter and no greater evidence than what was produced before the expert committee. The hon. Members who are interested must go through the evidence volumes of that committee's report and there. they will find instances of both kinds.

You will remember, Sir—many hon. Members may not remember who were not Members then in the provisional Parliament that when I piloted the Temporary Laws Amendment Bill, I said, I had a list of about 30 or 40 cases of managing agents whose misdeeds seemed to call for prosecution. I went into the matter and I found that when one came down to what one calls brass-tacks, for some reason or the other, it was very difficult to permit any prosecution. Even at the present moment, I am struggling with a case concerning a very large group for the last five months we cannot even make a search of documents.

Complaints have been received in regard to the mis-deeds or practice of fraud on shareholders and fradulent liquidation in about 12 or 15 companies and we started searching the premises in November. For one reason or another, we have not been able to make any headway. There are about 12 cases. The first case went to the Supreme Court and then there are about 12 cases,—I think in one High Court. I do not wish to give any details here. But, I say that this is symptomatic of the general state of affairs in this country. That is to say, for understandable reasons our Constitution has ensured that no one shall be deprived of his rights and so on except through proper processes of law. We have also a very elaborate judicial system; then we have the law of evidence and we have a very alert Bar. Now, here we are engaged in making laws of every kind and we expect that those laws will be properly administered. On the other hand we have to bring guilt home to the people through the processes of law. In my opinion, many things which appears to be failures on the executive side are not so much failures as the difficulty of meeting the very exacting criteria of law. So, if one wants definite remedies, then one would have to think much more profoundly than merely concentrating attention on what the provisions of any particular legislation are. In other words, one would have to assume that as the background of any legislation.

As I said, I can quote instances of the cases of mis-deeds of managing agents, which are possibly in my possession to a far greater extent than any other hon. Member. I have also instances where managing agents have been able to nurse the industries, having advanced loans to it to help it over a stile, so on and so forth; but, I confess that I have no statistical evidence which would point one way or the other, except that *prima facie* I am prepared to accept the findings of the Expert Committee which devoted a great deal of attention to this matter, and which, as one hon. Member pointed out, contained a very vigilant representative of the shareholders. I am prepared to accept their findings, that the time has not come for eliminating the managing agency system. Here again, it is a matter for the Select Committee and I think, that apart from any constitutional issues of compensation and so on, they will still come to the conclusion that if we were to eliminate the managing agency system, we would probably be dealing a very severe blow to the expansion of industrialisation in this country. Therefore, it seems to me that we should not end this system unless we have first tried mending it. After all, this is the first major opportunity that we are taking of mending it and my own advice would be that we should wait and see how in our legal environment we are able to regulate this to secure the best interests of the shareholders and the general public.

Mr. Deputy-Speaker: Has the hon. Minister any idea as to how many cases of managing agency the Committee inquired into?

Shri C. D. Deshmukh: They have got a large mass of evidence. I cannot quote statistically how many cases they considered, but anyway, with regard to the provisions that are made, it is open to the Select Committee to suggest the number of years, term and so on. A reference was made for instance, to the un-conscionable share taken by the managing agents. Well, there is clause 311 which refers to the term after the first terms are over and it is always a question of how far Parliament can interfere with the present terms and contracts of managing agents. It is possible to take the view that if one were to eliminate it all of a sudden, then it might raise the difficult issue of compensation for existing rights. I am not putting ideas into the heads of managing agents; they have got their own legal advisers who will naturally advise them. These are very difficult issues and I would ask

[Shri C. D. Deshmukh]

the House not to be carried away by their justifiable and understandable indignation. I am myself indignant at my impotence in proceeding with certain matters, but inspite of that, as I said, one must make sure that one does not throw out the baby with the bath water.

Shri H. N. Mukerjee: May I ask if the principal reason for Government not to proceed with the liquidation of the managing agency system has something to do with the constitutional and juridical difficulties?

Shri C. D. Deshmukh: That is not the main reason. Unless the contrary is proved, and I say that no hon. Member is statistically in a position to prove it that the present system is doing nothing but harm—one can consider the evidence; if hon. Members want to refer to the evidences again which were before the Committee, they can go into this matter—but, I myself believe like my colleague, that at the moment we can ill afford to eliminate the system altogether and that by doing so, we would probably be undertaking too much of a burden which we shall not be able to bear, or too much of a responsibility which we shall not be able to discharge.

Reference has been made, for instance, to nationalisation as one way out. Even now we find that we are very short of the right sort of personnel. Some hon. Members have complained of frequent transfers of officers who have been appointed as managing directors to some of our public enterprises. The reason is that we try to make six officers do the work of twelve; that is why they are needed for any fresh enterprise. If some officer has started something and that gets into its stride, then it is considered permissible to withdraw him to enable him to start some other public enterprise. I think this is the way by which we can hope to build up a commercial or economic service. After all inspite of the many hard things that have been said about the I.C.S., they had one quality and that was to be able to turn their attention after a little experience, to a large variety of matters with the result that they cultivated a very large and extensive outlook and it is that kind of outlook which we should possibly want our own present government employees to cultivate in order that they may help us in the public sector wherever we considered it necessary to do so. Therefore, so far as this nationalisation is concerned, our hands are full. That leaves the choice between the managing agents and Board of Directors.

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Again, I do not have the statistics nor am I prepared to say that in the last four or five years, no new important company has been started with managing agents. I am looking into the actual evidence and I may be able to place it before the Select Committee. It may be that one case in ten enterprises has been started by a promoter and Board of directors, while nine have been started by managing agents. In any case, it seems that we cannot deny the human ingenuity and the human gullibility being there and I have no doubt that we shall have to wrestle with any new system. Even if we do away with managing agency, we shall have to wrestle with managing directors. For instance, we have no managing agents in banks or insurance companies, and yet, I doubt if any hon. Member will come up and say there is nothing wrong whatsoever with the management of banks and insurance companies. We are wrestling here with the maladministration in many insurance companies.

Another hon. Member from Salem said that what he looked forward to was the professionalisation of industry. That is a very good ideal. That is precisely what we are trying to do in regard to insurance companies. I cannot say we have succeeded. The council that has been appointed has not yet been able to deal with some of the malpractices which are prevalent in the insurance work. Therefore there is danger of our being in the position of a person who was asked what it was that led to inebriation, who first tried a mixture of water and whisky, then tried water and gin, then water and brandy, he was inebriated on every occasion and finally came to the conclusion that it was the water that was to be blamed. It seems to me that is the attitude of the hon. Members and for them it is the managing agency.

Shri Gadgil: May I know if the attitude of the Government is open and will be so in the Select Committee on this question?

Shri C. D. Deshmukh: The attitude of Government is open on all questions that go to the Select Committee.

Shri Gadgil: I am asking this question in particular because the impression I am carrying after listening to you very attentively is that you are loading the dice against it.

Shri C. D. Deshmukh: If a Bill is brought forward before the House which contains certain provisions, after hearing everything, I must still say what I feel. I must justify the provisions that have been brought forward for the consideration of the House. But, it is still open to hon. Members. As I said I have not got much of the evidence with me; it may be, by the time the Select Committee meets we shall go into the matter fairly well; of course, the House has concentrated on this issue much more than any other issue......

Shri Sinhasan Singh (Gorakhpur Distt.—South): Just as the hon. Minister has said that he himself is indignant at his impotence, does he feel that either Parliament is not behind him or the public is against it, that he is unable to remove the managing agency system?

Shri C. D. Deshmukh: I do not think that the hon. Member was here when I referred to the legal structure. It is our respect for the law, and it is our judiciary and other institutions that make it difficult, in my mind, to bring home the guilt to the people who offend against some of our important provisions. I have given an instance. For the last five months, on the complaint of a Registrar of Joint Stock Companies, we have not been able to carry out even a search, much less to put forward a case before a court. These are matters which hon. Members must consider.

Shri S. S. More: Who is responsible?

Shri C. D. Deshmukh: I am not responsible for the Constitution; I am not responsible for the judiciary; I am not responsible for the Bar.

Shri S. S. More: Then, your police are responsible.

Shri C. D. Deshmukh: Anyway, if my hon. friend, with his nimble wit, can point out a way to get over these difficulties, I shall consider him as an ally.

With these observations, I close.

Mr. Deputy-Speaker: I shall place before the House first Shri Vallatharas's amendment and then the main motion.

The question is:

> "That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st July, 1954."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

> "That the Bill to consolidate and amend the law relating to companies and certain other associations, be referred to a Joint Committee of the Houses consisting of 49 members, 33 from this House, namely, Shri Hari

[Mr. Deputy-Speaker]

Vinayak Pataskar, Shri Chimanlal Chakubhai Shah, Shri Awadeshwar Prasad Sinha, Shri V. B. Gandhi, Shri Khandubhai Kasanji Desai, Shri Dev Kanta Borooah, Shri Shriman Narayan Agarwal, Shri R. Venkataraman, Shri Ghamandi Lal Bansal, Shri Radheshyam Ramkumar Morarka, Shri B. R. Bhagat, Shri Nityanand Kanungo, Shri Purnendu Sekhar Naskar, Shri T. S. Avinashilingam Chettiar, Shri K. T. Achuthan, Shri Kotha Raghuramaiah, Pandit Chatur Narain Malviya, Dr. Shaukatullah Shah Ansari, Shri Tekur Subrahmanyam, Col. B. H. Zaidi, Shri Mulchand Dube, Pandit Munishwar Dutt Upadhyay, Shri Radhelal Vyas, Shri Ajit Singh, Shri Kamal Kumar Basu, Shri C. R. Chowdary, Shri M. S. Gurupadaswamy, Shri Amjad Ali, Shri N. C. Chatterjee, Shri Tulsidas Kilachand, Shri G. D. Somani, Shri Tridib Kumar Chaudhuri and the Mover, and 16 members from the Council;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that the Committee shall make a report to this House by the last day of the first week of the next session;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and

that this House recommends to the Council that the Council do join in the said Joint Committee and communicate to this House the names of members to be appointed by the Council to the Joint Committee."

The motion was adopted.

CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

The Minister of Home Affairs and States (Dr. Katju): I beg to move:

"That the Bill further to amend the Code of Criminal Procedure, 1898, be referred to a Joint Committee of the Houses consisting of 49 members, 33 members from this House, namely, Shri Narhar Vishnu Gadgil, Shri Ganesh Sadashiv Altekar, Shri Joachim Alva, Shri Lokenath Mishra, Shri Radha Charan Sharma, Shri Shankargauda Veeranagauda Patil, Shri Tek Chand, Shri Nemi Chandra Kasliwal, Shri K. Periaswami Gounder, Shri C. R. Basappa, Shri Jhulan Sinha, Shri Ahmed Mohiuddin, Shri Kailash Pati Sinha, Shri C. P. Matthen, Shri Satyendra Narayan Sinha, Shri Resham Lal Jangde, Shri Basanta Kumar Das, Shri Rohini Kumar Chaudhuri, Shri Raghubir Sahai, Shri Raghunath Singh, Shri Ganpati Ram, Shri Syed Ahmed, Shri Radha Raman, Shri C. Madhao Reddi, Shri K. M. Vallatharas, Shri Sadhan Chandra Gupta, Shri Shankar Shantaram More, Sardar Hukam Singh, Shri Bhawani Singh, Dr. Lanka Sundaram, Shri Rayasam Seshagiri Rao, Shri N. R. M. Swamy and Dr. Kailash Nath Katju, and 16 members from the Council;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Cammittee;

that the Committee shall make a report to this House by the last day of the first week of the next session;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and

> that this House recommends to the Council that the Council do join in the said Joint Committee and communicate to this House the names of members to be appointed by the Council to the Joint Committee."

I must confess that I regard this day as a somewhat notable day in my life. I have spent most of my living years in the law courts and have felt in my day to day work the difficulties and complexities that arise in the administration of the law, particularly in procedural matters. One thing which has struck every one of us, each lawyer, to our greatest sorrow, is that a law court, instead of being an incentive to the people of this country, to go and assist the administration of justice by giving true evidence before the judges and magistrates, does not seem to exercise that function, nor generate that incentive. The common feature, as every lawyer and everyone who has to deal with law courts feels is that perjury flourishes. This is a matter for the moralists and public conscience, and I know that legislation can do but little in this matter. I appeal to this House, to this sovereign Parliament, to take the utmost possible measures that it could for the purpose of purifying the atmosphere of the law courts.

The second thing is this. From decade to decade, for a variety of reasons—it is not that the procedure is complex—the procedure is somehow becoming complex. It is becoming dilatory; it is becoming expensive. It may be that the persons who are accused, who have to go to the law courts, want themselves to protract the proceedings, to ward off the evil day. But, the result is nevertheless the same. It is awfully expensive; it is awfully dilatory. During all these years I have met people in the villages and in the urban areas, and mostly in the last two years, who seem to be losing faith in our law courts, particularly on the civil side. They say, what is the good of bringing a claim; it takes three years to get a decree, and another five years to put it into execution. We would rather settle it out of court than go to the law courts. So far as criminal justice is concerned, for a variety of reasons, there is a very complicated procedure. The case takes months and months before the magistrates; if it is a sessions court, it takes one or two years. Then, the number of acquittals is enormous. I do not know that there is any difference in principle which should guide these matters namely, every one is anxious that no innocent man should suffer and no guilty man should escape. The police say that they do as best as they can.

Judges and magistrates say that they are independent and they deal out justice between the State and the citizen. The result is that before sessions courts, generally speaking, out of 100 people prosecuted, 75 are acquitted and of the persons convicted, at least one-third are acquitted by the High Court. That is the state of affairs which we have got to tackle.

Before I go into the leading features, there is an amendment which seeks to persuade the House to circulate this Bill for eliciting public opinion. It may be that there is some apprehension that people have not been properly consulted about it. I want in the very beginning to tell you what the facts are and what actually has been done. Now, as a matter of history, it may rather interest the House that the first Criminal Procedure Code on an all-India basis as applicable to British India was enacted in the year 1861. Before, that, there were numerous regulations in force in Bengal, Madras, Bombay and elsewhere and the procedure was in a very cumbersome state of affairs, one procedure for what were called Presidency towns which followed the English procedure, another procedure for the *Nizamat Adalat*, the East India Company's courts and so on and so forth.

[Dr. Katju]

Everything was codified and put on a formal basis in the Criminal Procedure Code of 1861. And about that very time, we had our two big codes, the Civil Procedure Code as well as the Penal Code reforms were passed. Now, this Criminal Procedure Code has stood practically without any big change right through. It is correct that the Procedure Code which is now in force is called the Procedure Code of 1898, but not many changes have been made thereafter. There were some amending Acts in 1872, in 1882 and last of all in 1923. I think that this is the first big and comprehensive examination of the entire Criminal Procedure Code this Parliament is undertaking after about 92 years, and it is also of some importance.

So far as the events preceding the Bill are concerned, what happened was this. In the year 1951, the Punjab Government sent a communication in which they made some suggestions, the most important being that the commitment proceedings should be abolished. There should be a direct sessions trial and they also pleaded for simplification of the warrant and summons procedures. This letter was circulated by the Home Ministry to all the State Governments and I may tell the House here that we received a lot of information. Out of 27 State Governments, 24 have sent replies. Out of 16 High Courts, 11 favoured us with replies. Now that was the position when the Home Ministry on their own in January 1953—that is, last year—sent a very comprehensive letter suggesting numerous points and asking for opinion. (*Interruptions*).

Shri Vallatharas (Pudukkottai): Were any Bar Associations consulted in this matter?

Shri N. C. Chatterjee (Hooghly): Were any Bar Associations or Bar Councils consulted?

Dr. Katju: I am coming to that.

Shri Syed Ahmed (Hoshangabad): That would be answered if you allow him to proceed.

Dr. Katju: Some State Governments sent what are called consolidated letters, namely, they embodied the opinion of the judges, the Bar Associations and the lawyers also. Now, this letter which went out from the Home Ministry in January 1953 was a very comprehensive one and that asked for opinion from all the State Governments. The State Governments were requested to consult the High Courts, the Bar Associations, district judges—everybody—and the replies that we received were numerous. We received from each State Government consolidated replies. From Bombay we received the opinion of 15 district judges and 18 Bar Associations—separate—, from Madras the numbers were, 7 district magistrates and some Bar Associations. Each State Government sent what they called a consolidated reply. Now this was proceeding when the House would recollect that in August last in the course of the discussion of a Private Member's Bill in which the question was raised of the abolition of trial by assessors and by juries, I made a statement that we were considering this matter and I said that I would like to place a Bill before Parliament as early as I could, say in the month of December. I ventured to prepare a memorandum—which turned out to be a very big one, —about 52 foolscap pages—which dealt with both the Civil Procedure Code and the Criminal Procedure Code. I sent that out to all the judges of the Supreme Court, all the Chief Justices, all the Chief Ministers representing their Governments and the Governors, all the Advocates-General asking for opinion at large; I sent that memorandum also to my hon. friend, Mr. Chatterjee, and many other friends. I should like, Mr. Deputy Speaker, with your permission to express my deep gratitude for the very generous response that I received. Now, that was before the Bill was framed. I had sent out that memorandum to 75 big people and big authorities and out of them, 52 have favoured me with replies. Every single judge of the Supreme Court sent detailed comments, then 14 Chief Justices out of 16 sent replies, mostly after consultation with their colleagues, then 12 Chief Ministers, 10 Advocates-General and 5 Governors—some of them, you know, are lawyers of great eminence—the Attorney-General and also the Solicitor-General—all sent replies. Out of all this material which had been collected, namely, the material received in answer to our previous letter of January 1953, the material received in answer to the Punjab Government's proposals and in answer to this memorandum, we ventured to prepare a Bill and with Mr. Speaker's permission I got it published in *the Gazette of India*. That was in December last. We from the Ministry also sent another letter drawing attention to that publication and asking each State Government to reproduce the Bill in their own State Gazettes. We also asked them to let us have the opinion of every single person interested in this matter. Now, between December and April, there were four months and in these four months we have received 207 replies: 56 Bar Associations have written to us, 21 Advocates-General in their personal capacity have written to us, then 66 sessions judges and district judges and 30 district magistrates sent replies, 19 State Governments sent what you may call consolidated letters, notes stating their opinion and 15 High Courts sent us their comments—altogether 207. We analysed every one of these and took the previous matter and we saw that most of these comments were on the proposals embodied in the Bill and many others were on points which had not been touched in the Bill—*i.e.* points in the Bill and points outside the Bill. Then we went over them and we thought that some of the suggestions received were sound and we adopted them. Where comments made on the amendments appeared to us to be sound, we have changed our proposals and the result is that the Bill which is today before the House is substantially the Bill which was published in December last, but which does depart in some particulars from that Bill. It either modifies here and there some suggestions made to the proposed amendment or adds some further features which have been the result of the comments received.

I respectfully submit, Sir, that no one can say that this Bill has been drafted in a hurry or that comments of competent people, judges of the High Courts and the Supreme Court, practising advocates, Bar Associations etc., have not been consulted. I submit with some confidence that so far as we could do, we have tried to profit by all the advice that we have received and this Bill comes before you after very mature consideration lasting for over two years. I may say at once that I had intended, if I could have been able to introduce the Bill about the middle of December, to ask the House myself to circulate it for eliciting public opinion. But as you will recollect, we were all very much concerned at that time with the congestion of legislative business. So, I said to myself that if I could persuade Mr. Speaker to allow me to publish it, there were four months and the public would be in possession of the proposals and we could utilise these four or five months and thus avoid a formal reference for eliciting public opinion.

Shri Bansal (Jhajjar-Rewari): On a point of information, Sir. If the Bill is circulated for eliciting public opinion, then those public opinions are made available to the Members of the House. Inasmuch as the hon. Minister's contention is that this Bill was published about four months back and he has received a lot of public opinion, will he be kind as to favour the House and the Select Committee with a consolidated summary of whatever views have been receiv-

[Shri Bansal]

ed? In fact the House would have been very glad to receive from the hon. Minister all the previous view-points that were received by the Minister, but that may be perhaps too voluminous. The House will very much appreciate—I think I am speaking on behalf of a good number of hon. Members—the circulation to it at least those views which have been received subsequent to the publication of the Bill in the gazette.

Dr. Katju: I am indebted to the hon. Member for this suggestion. As a matter of fact, this has already occurred to me and I have already instructed the preparation in the form of a book, the printing of the comments that have been received on this Bill right from the year 1951. I may say at the outset, as I said in August, that I am not putting forward this Bill in any party spirit. In the administration of criminal justice, we are all deeply interested. It is a matter which concerns 36 crores of people and we are here engaged in an endeavour to make it as perfect as we can, with the combined wisdom of every single Member of Parliament. So, nothing can be concealed, nothing can be kept back and I do hope that by the time the Select Committee begins to function that booklet—or may be a biggish thing—may be ready. I shall keep copies placed in the library so that every single Member of Parliament can have it for his own consideration and for his own perusal.

Shri N. C. Chatterjee: May we press for the circulation of that thing; it is very important and all of us must get a chance of appreciating it.

Mr. Deputy-Speaker: He wants that copies should be circulated to the Members.

Dr. Katju: It shall be made available for the Members.

Shri S. S. More (Sholapur): In the library or personally?

Dr. Katju: I shall circulate it to every single Member of the 750 Members of Parliament. Is it enough? I have already given orders for its printing; it is in the Press. I am indebted to my hon. friend for this suggestion. It is a very important matter. I think every Member ought to have the comments made by the superior judges, the inferior sessions judges and members of the Bar, Advocates-General and others. It is not a question of placing something on the Table of the House. Every single Member will be supplied with a copy.

This is the history. I have gone into it at some length, Mr. Deputy-Speaker, because I do not want to create an impression that this thing has been done in a hurry or the Bill is the product of some particular individual's ingenuity and all that. I am extremely grateful for all the assistance that we have received and are receiving. We have all treated it as a sort of endeavour in which every single citizen is interested.

Leaving this history aside, I venture to put before you the basic reasons underlying the Bill. What is the background? During all these 12 months or 16 months and practically throughout my practice, I have always been constantly thinking of how to stop perjury. Human nature being what it is, it may be a completely hopeless task. But we can lessen it. I can understand a man's relations, a man's partisans coming and telling lies, but why should an ordinary citizen come and do it? We must recapture the reputation that India had in the olden days that the people of India were truth-loving people.

This Bill does not deal with judicial *panchayats*. Judicial *panchayats* have now become a common feature in the legislation of every State. It occurred to me that we might deal with it here; but then I thought it would be better to leave it aside because in each State there is legislation for the establishment of judicial *panchayats*. There are some variations. I believe the State Governments bear in mind their local conditions and they want to make progress accordingly. I know that on the value of judicial *panchayats* opinions differ. I have heard opinions on both sides. Small litigation—civil litigation for only Rs. 200 and small crimes, petty assaults—one beat and nothing happens—all these can be settled in the village. If you have to bring a suit for Rs. 200, before you do anything, you have to spend about Rs. 20 in court fees. In the villages a man can get justice done by the *panchayat* for nothing. Probably, it is just a small application and something like that. I do not want to tire the House with details and I am firmly convinced that justice administered in these *panchayats* is of the highest quality, speaking generally. It may be that a *panchayat* here or there may be unsatisfactory; it may be guilty of corruption, may be guilty of irregularities. If in a particular village there is faction, then justice may be administered in a partisanship spirit. You may find such *panchayats* functioning here and there. But, in the vast majority of cases it is to me a matter of personal gratification that these *panchayats* have proved a real boon.

Only four months back, I went on a sort of tour for ten days through Madhya Bharat and Bhopal and everywhere I found the *panches* meeting me. I went into the villages; I asked the people. 'how is your *panchayat*'? They said 'we are all happy; we have not got to go to the courts'. If a man goes to the court for a small petty criminal case, say to the sub-divisional headquarters or to the district headquarters, imagine what happens to him. There are lawyers, there is the magistracy, there is the *peishkar*, there are the witnesses themselves and there is *puri kachauri*. All this means hundreds of rupees.

An Hon. Member: Touts.

Dr. Katju: We have left out these judicial *panchayats* here. That brings me to another feature of the Bill and that is the trial by assessors and jury. It is rather curious that there is a complete unanimity of opinion today that the system of criminal trial with the aid of assessors has outlived its usefulness. Out of 207 replies which have been received, not a single dissentient voice is there. They say "You can proceed in the matter and abolish the jury system". So far as the jury system is concerned, in this House we have heard hon. Members expressing different views. I remember Mr. Chatterjee saying that in Bengal they have found the jury system very useful. It is rather curious that in other provinces it is not so. They have not seen the sight of a juryman in the Punjab, for instance. In Gorakhpur there has never been a jury trial for centuries. My hon. friend Mr. Sinhasan Singh may stand up and say that the jury is corrupt.

Shri Sinhasan Singh (Gorakhpur Distt.—South): Who said so?

Dr. Katju: People who are not accustomed to jury trial and who have nothing to do with juries, stand up and say "The jury is corrupt, partisan and so on and so forth". I sometimes thought that out of 100 cases, if 75 result in acquittal, then the sessions judge is praised by all the lawyers concerned for his great independence, experience, and ability in assessing evidence and finding out the true from the false, and so on and so forth. If the 75 are acquitted by the jury, the jury is condemned as being corrupt and all that. The sessions judge gets the praise and the juryman gets the condemnation. My own personal feeling is this. I may be in a minority. I am talking as a lawyer. One of the worst features of our life is—it may be a historical reason; it may be the result of 200 years of British rule—that the people do not consider the law courts as their courts. They think that the courts are something out of their life. If you want to make ad-

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ministration of law pure and speedy, and if you want to check the horrible state of perjury which is now prevalent, you must create a sentiment in the people that the court is their court and that they are associated with the administration of justice. In this Parliament, this is one of our greatest functions and we make the law, but people feel that it is their law and that it is not being made by some outside authority. It is being made by people whom they have elected and, therefore, it is something, of which they are proud. Similarly, in the administration of justice, if you associate the right type of people, it should be welcomed by the people. I do not know whether the lawyers or judges here are in the habit of writing and publishing their own biographies, but if you read the biographies of the most eminent and leading barristers and judges in England, you will find that one after another, for the last 500 years, leading advocates, judges and Lord Chancellors have paid their homage to the British jury for the wonderful work they have done in preserving the liberty, by which they have protected the citizens and promoted the respect for law and order. I may say here that if one guilty man escaped, that is as much disastrous to the common welfare as the conviction of an innocent man. My own opinion is that we may modify the legal system and make the necessary changes so that we may regulate how to select our jurymen. We may insist upon their being educated, that they should be treated in a respectable manner, that they should not be shabbily treated, that they should have proper treatment given to them just as the British jury are treated. Then, you will find that the administration of justice will improve. Today, the condition under the present law, is that if the assessors go, then the trial will be either by a judge sitting alone, or sitting with a jury. It will be a trial by a judge or trial by jury, and it is left to the State Governments to decide, subject to the concurrence of their legislature, as to whether they will introduce a jury system or whether they will not do. I have left it aside. In Punjab, there is no jury system and it is open to the Punjab Government to have it or not. In Bengal, the people are satisfied with the jury system and so it may go on there. We have left the law as it is and let everybody decide for himself. I am indebted to the Bombay High Court Judges. They have made some suggestions which we have incorporated in the Bill and about which I have been thinking for a long time myself, namely, if a trial is a very complicated one—as, for example, a trial in a dacoity case, in which there are about 25 accused, 150 witnesses, 300 exhibits and the trial goes on for five months—it may be a very great burden on an ordinary jury to carry all these in their heads. The Bombay High Court has suggested that if there is a sessions trial pending in Bombay, where the jury system prevails, then it will be open to the High Court on an application made or on its own, if it is satisfied about the complexity of the trial and the nature of evidence, and so on and so forth, to have that case tried by a judge sitting alone, and it will be open to the High Court to dispense with the jury. We have embodied this in the Bill. So far as the jury is concerned, the Bill leaves the situation as it is. So far as the assessors are concerned, they have got to go. Personally I would consider it a very very happy day in my life if the jury system were extended and people adopted it. As a matter of fact, it is very curious that until the day of the advent of Independence, throughout India the Congress and all our national leaders were advocating, striving and passing resolutions for the establishment of jury in India. In the U.P., with which I am very familiar, soon after the Montagu-Chelmsford reforms, the new legislative councils came into existence, and resolutions were passed that the jury system should be established. A committee was appointed, another committee was appointed and the Indian opinion was so emphatic about it that they made a beginning with it. Today, in the U.P., the jury system prevails in six districts, and in some trials, cases can only be tried by jury, but as soon as Independence came, even that truncated Independence after 1947, I do not know how this metamorphosis came about. In the Indian legal opinion, lawyers' opinion, and the judges' opinion the juries became wild people and therefore the jury system should be abolished. I should personally be happy if Parliament were to decide that every sessions case should be tried with the aid of the jury, but there it is.

I shall now take only the big changes that are effected here.

Mr. Deputy-Speaker: Is the jury system advocated for murder cases in the Bill? Hitherto, in murder cases, there were no jurors; there were only assessors.

Dr. Katju: So far as the Bill is concerned, it makes no change about jury at all.

Wherever the jury system prevails in the trial of murder cases it will continue. The Bill does not say that a murder case should be tried with jury.

I think in Bengal, Mr. Chatterjee will correct me if I am wrong......

Shri N. C. Chatterjee: In Bengal and Assam, both, in all murder cases there is jury trial.

Dr. Katju:...... every murder case goes before a jury. In the United Provinces it is only the lighter cases that go before the jury; others do not. Often it happens that there are two charges: the first relating to murder and the second against the same accused for causing the disappearance of the dead body, or possessing an unlicensed arm. So, one aspect of the case is tried by the assessors; the other by the jury. The same five people who function as jurors also function as assessors. So, whatever the position is, it is left completely untouched. We are not going to make any alteration here. It is open to the State Governments concerned to do what they like. It is, however, open to hon. Members, whether in the Select Committee, or in the open session, to make any changes they like, opinion being divided on this subject.

Now, I was coming to one big change that we have made here, namely the abolition of commitment proceedings. I think it is the experience of every lawyer that commitment proceedings take a lot of time. First comes the police investigations: it may take, two weeks, six weeks or five months. It all depends upon the intricacy of the case and the number of witnesses. When the accused is charge-sheeted he goes before the committing magistrate, and I have seen proceedings before magistrate lasting, five months, six months, eight months.

An Hon. Member: Two years!

Dr. Katju: My hon. friend says two years. And please remember that the length of the proceedings has a very mischievous consequence. The mischievous consequence is that the horror caused in the public mind by the guilt, by the crime fades away. Secondly, it gives an opportunity to the dishonest offender, supposing he is the culprit, to win over witnesses, and the result is that very often—maybe honest witnesses,—memories become hazy, there is the clever cross-examination, there are some discrepancies, evidence becomes rather shaky and the whole case ends in an acquittal.

The purpose of the commitment proceeding was to provide the accused with full knowledge of what he had to meet: full knowledge means all the evidence, of the witnesses as well as documentary. Now we have decided that all this should be made available to him. Now what is the first document. I am perhaps talking platitudes, because every-

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body knows it. The case starts with the first information report. Then there may be a *post mortem* report, if it is case of murder; there may be the chemical examiner's report; then comes the notes made in the police diary by the investigating officers. The House will remember that today it is open to a police officer—if he so chooses, and this is rather important, to get the statement of every witness recorded by a magistrate. It is entirely in his discretion. What he generally does is that if there is a witness about whom he has some suspicion, either because of relationship or because of some other reason, that he may try to get out, then he goes and has his statement recorded; otherwise not. So far as the statement in the diary is concerned that is in the handwriting of the police; it is not signed by the witness. It is not part of the evidence.

Now, we have provided here, not for the purpose of tying up witnesses, but for the purpose of making evidence available, that every police officer, during investigation, whenever he thinks that the witnesses are material witnesses, will have to produce them in court. He gets the note in his police diary first and then as early as practicable within two days, three days, four days, he should get the statement of that witness recorded before a magistrate in the freer atmosphere of the magistrate's court and get it signed by him. The result will be that you get all the documentary evidence, oral evidence and any other material evidence and we propose that copies of these documents should be at once handed over to the accused so that he may know full well what he has got to meet.

Shri R. K. Chaudhuri (Gauhati): On a point of information. As soon as a charge sheet is submitted, even if the Magistrate thinks that it does not disclose any case, is it open to him to send it to the sessions judge?

Dr. Katju: What I was saying was this. When a charge-sheet is framed, it discloses on what evidence the man is charged. May be that I have not got sufficient experience in the original courts, but I imagine that when a magistrate discharges an accused in the commitment proceeding he discharges him not because there is no evidence at all—excepting what I may call embroidery accused here and there, but because, in his opinion, the evidence is not trustworthy. The evidence against that particular accused is slender and that slender evidence is not trustworthy. What we have done today is this. The charge-sheet along with all the evidence, which has been collected by the Police shall be put before a magistrate. He will read it and if he finds that it need be tried only by a magistrate he will send it to a magistrate. If he thinks that it should be tried by a sessions judge, in order to give the accused a full opportunity of knowing the precise charges against him he will draw out a draft charge and then send the papers. As I said just now we have received 207 opinions on this Bill and I find that opinions against the abolition of commitment proceedings were twelve,—12 out of 207. If my recollection is right all the judges of the Punjab said it does not do any good. So far as the discharges are concerned, the Select Committee will go into it at great length. I do not think the number of discharges is more than 1 per cent or 2 per cent, and these may be, what I call embroidery accused persons.

Pandit Thakur Das Bhargava (Gurgaon): May I put a question? The hon. Minister said that a copy of the entire evidence and statements will be supplied to the accused. May I know whether all the statements taken before the police as well as the notes of the police will be supplied?

Dr. Katju: I think hon. Members are aware that today under the existing procedure the moment a witness is produced by the prosecution, if the accused so desires, a copy of that man's statement and the witnesses' statements in the police diaries are furnished to him. The relevant section itself, however, says that it may be open to the court to, what I may call, rub out or not to give copy of a statement which has nothing to do with that accused, which are not material or which in the interest of security should be kept back.

Pandit Thakur Das Bhargava: Notes of inspections, as well as statement recorded so far as witnesses are concerned, will they be supplied or not? Let us know precisely what is actually proposed to be supplied.

Dr. Katju: If you want to have a look at the whole police report and other things, that cannot be allowed.

Shri S. S. More: Who is to decide?

Dr. Katju: That will be the judge. It is open to the judge to look at the entire thing. (*Interruptions*).

Mr. Deputy-Speaker: Let the hon. Minister go on.

Dr. Katju: My point was that so far as this is concerned, we are most anxious that the accused should have as complete information as possible made available to him before the sessions trial starts. Today while the commitment proceedings are in vogue, what does he get? Every witness is examined before the magistrate. He gets a copy of that. In addition to that, he is entitled to a copy of the statement of that witness in the police diary. So that is before him. But he is not entitled to have a sort of clean run over the police diary itself. The *vakil* might suggest to the judge: will you kindly have a look at the diary? Every sessions judge has got it before him and he reads through the entire report but the accused is not entitled, as a matter of right, to the whole thing. We have not given that right to him here. He is entitled to know what his witness is going to say; nothing more.

An Hon. Member: May I know whether this procedure has to be followed in respect of sessions cases only or in respect of all cases.

Dr. Katju: I am coming to the warrant cases. I was dealing with commitment proceedings; I shall deal with warrant cases in a minute. The object of the commitment proceedings being to let the accused know what the prosecution case against him is and what evidence is there, he has got to know and we want him to know that by the supply of copies.

I hope the State Governments will take adequate steps to try and see that police investigations are completed as early as possible. I was looking to a maximum of two months but this will put strain on the police staff. Wherever I have gone, people had said to me: 'you are complaining of delays, the Procedure Code may be responsible for it but delays occur mainly because of the inadequacy of the staff—inadequacy of the police staff and inadequacy of the magisterial staff. I have heard a lot about the poor magistrates. He is holding enquiries and there are too many cases. Then they say that this is becoming a welfare State and the magistrate has got to go to the community welfare project, he has to go to the co-operative societies. Then the ministers may be going there—the Central Ministers, the State Ministers, the Deputy Ministers and the Parliamentary Secretaries, the V.I.Ps. from this sovereign Parliament. They all go and he has to look after them. The result is that the cases are postponed. I do hope that when this Bill is enacted the State Governments will see to it that for the trial and disposal of cases there should be a magistrate—or you may call him whatever you like—and he should have nothing to do except disposal of criminal cases.

Shri R. K. Chaudhuri: What about those cases which are not exclusively tried before the court of session? A case is brought before a magistrate and he thinks that he should commit it to enhanced sentence and what will happen?

Dr. Katju: It may go before the sessions judge. I would request the hon. Members not to be guided too much by very rare cases when we are enacting a Code. I am coming to that part of the matter again. The main thing was about the commitment proceedings. The length of the proceedings would be shortened considerably. Please consider that the commitment proceedings are........ (*Interruptions*).

Shri S. V. Ramaswamy (Salem): What will happen..........

Shri Syed Ahmed: He is making a speech in support of his Bill. I think you would be good enough to give time to every Member to speak on the Bill and about the other difficulties if there are any. What is the use of interrupting him just now?

1 P.M.

Mr. Deputy-Speaker: The hon. Members who are giving this advice are themselves guilty.

Shri Syed Ahmed: I beg your pardon, Sir.

Mr. Deputy-Speaker: Anyhow I would request hon. Members not to keep on interrupting. After all, this is a debate. Why should you be very touchy over the matter? After all, all hon. Members are practising lawyers and they want to make the Code as good as possible. Let the hon. Minister make his points and at the end of that any suggestions or enquiries can be made.

Dr. Katju: I say that when we consider this matter please remember that these proceedings which sometimes last for months with 20, 30 or 40 hearings, mean not only waste of time, but something in terms of money also and the accused people are very often poor people. I know of a case where the devoted wife of an accused had to sell her ornaments so that the husband may put up a proper defence. By the abolition of this totally unnecessary commitment proceedings you save time and you save that poor family from ruin. If he is guilty, he ought to be punished quickly, and if innocent, let it be quickly decided. But, whether guilty or innocent, if he is going to be hanged, let him be hanged quickly, so that some money may be left for the family to live upon. Why should money be unnecessarily spent on the defence of a murderer? From that point of view, I respectfully suggest that this is a sound proposal. The truth of this is that the Punjab Government proposed it in the year 1951 and all the State Governments supported it, and I have told you how the figures stand.

We have taken care to give complete discretion to the judge to see that the accused does not suffer. For instance, there is a section which provides for regulating cross-examination of witnesses. It is open to a counsel for defence to say: "Sir, on this point there are three witnesses. Will you kindly allow me to examine witness A who has just now given evidence till the other witnesses have given theirs"? This is a matter left to the discretion of the judge. He may postpone or regulate the cross-examination in particular cases so that the case of the accused may not suffer.

Now, I am looking forward to the day when the sessions trial should be finished within two months. If it is a sentence of death, then it has got to be confirmed by the High Court and I am looking forward again for the day when the High Court will take only two months. In some cases it has taken many many months, but things are settling down. Please remember again that life is so precious that the condemned man takes every single step which is open to him merely to prolong his existence. The Supreme Court has declared from the house-tops that it would not interfere in criminal cases on pure points of evidence; but if you go to the Supreme Court you will find that out of the condemned men in India, probably 99 per cent. of them, have filed what is called petitions for leave to appeal and every petition for leave to appeal is dismissed in two minutes. I am not exaggerating. There is nothing in it. It is done for the condemned man by his wife, father or mother or someone else, just to have a chance to prolong his life. When that disappears, then comes the mercy petition; first before the Government and then before the President. That may take a month or two months. The result is not very good even for the man who has committed murder. He lives a life of hell with the sword of Damocles always hanging over him. I think it is desirable—it may sound cruel—in the public interest that punishment in a condemned case should be swift so that people may remember: here is a man who murdered A in January and three months later he is being hanged. If you hang a man who committed murder in January 1954 in December 1956 or December 1955, everything is forgotten. People's hearts go out to the condemned prisoner and they think that his life has been taken. Nobody thinks of the murdered man, his wife and children. The trial and all procedure should be as rapid as possible.

My friends ask me about the application of this procedure to warrant cases. Today, it is an extraordinary case, you know it all, that in every warrant case, a man is liable to cross-examination thrice. It sounds ridiculous; but that is the fact. You give evidence. The counsel for the accused may get up and cross-examine you. Then, the charge is framed. Then, the counsel may say, I want this man to be cross-examined again. That is the second cross-examination. When the accused is called upon to enter on his defence, he may cross-examine you a third time. What is the result? The result is that people do not come to give evidence. Ask them what do you know about something. They say that they do not know anything. Why? Because the moment you go into the witness box, you will have to go over and over again. We go. The case is adjourned. We go again; again the case is adjourned. The procedure that we have envisaged is this. There should be one appearance of a witness and he should be cross-examined. Then, we leave it to the magistrate. If he thinks that there is some good reason for the petition for the defence to re-examine the witness and put further questions to him, he may order examination. Otherwise, it ceases to be a matter of right. I think that is a very fair provision, and I would ask the House to accept it.

Some Hon. Members: No, no.

Dr. Katju: The reasons for delay are numerous. These adjournments are the worst causes for delay. If you go to a witness, he says that he is ill. He gets fever, malaria. The case is adjourned. Here, we have provided in the Bill that if an application for adjournment is made and if the magistrate is disposed to adjourn the case, he will not grant the adjournment unless and until all the witnesses present that day have been examined. My friends have been asking me as to whether we have tried to cut short the duration of all cases. We have done that.

Another matter is this, and this would apply to all criminal cases. Today, in a criminal case, the number of what we call formal witnesses is simply enormous. When I was appearing in the courts, I used to handle these cases and I would get printed books, literally hundreds of pages of evidence. I found that the number of pages which were material may be 10; the other 90 pages were absolutely useless. Five witnesses are called for the purpose of proving that from the site of occurrence, the dead body was taken to a mortuary: they say, I took it; I am constable 252, etc. If on the date fixed for his examination, he is down with malaria, the case is adjourned, nobody reads his evidence. It is purely formal. This will be applicable to

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all criminal trials. The provision now made is that for all these formal things, it will be open to the prosecution to file affidavits. The affidavit evidence is there and it will be open to the magistrate or to the judge or to the prosecution or defence, if they want to get any one of these witnesses in the box and put them some questions, to put those questions and be done with it. That would also cut short the number of examinations and I may tell you that an adjournment may be caused by their non-appearance. So far as summons cases are concerned, we have simplified the procedure. Also the number of cases in which summary trials may be held is being increased.

Hon. Members probably might have read in the newspapers that magistrates in London and elsewhere finish a case in two minutes. The policeman comes; the accused is brought; the magistrate tries the case and orders are passed—a fine of £5. 'You were driving a car at over-speed, 35 miles an hour. The policeman caught you. Yes—£. 5 fine—£. 10 fine'. But here cases take three hours.

Mr. Deputy-Speaker: Nuisance cases.

An Hon. Member: Three months.

Shri Syed Ahmed: One year.

Shri S. S. More: Not cases of such type. (*Interruptions.*)

Mr. Deputy-Speaker: Order, order. Let there not be another court here. What are hon. Members doing there? They are talking to one another.

Shri Bansal: Cross-examination is going on.

Mr. Deputy-Speaker: Just now the hon. Member wanted me not to allow Mr. Ramaswamy to put any number of questions. Now he is going on talking to those Members who are sitting in the rear. Hon. Members must keep quiet when the hon. Minister is speaking.

Dr. Katju: Therefore, dealing with this question broadly, every effort has been made—that could possibly be made—by shortening evidence, by giving affidavit evidence so that trials may be speeded up. There is another thing—I am dealing with this in two or three minutes. The length of the trial is very detrimental to the accused. During my term, either as Minister or as Governor, I have often been to the jails and sometimes I found that the number of undertrials actually exceeded—sometimes doubled—the number of convicted prisoners. I used to see the sheets—two months, three months, four months. There was some boy aged 16. How long has he been an undertrial? Five months—charged for smuggling. That was particularly in Bengal—smuggling to Pakistan or from Orissa into West Bengal—and the trial does not take place. So we have inserted in this Bill a provision that either the case should be finished within six weeks or the accused would be entitled to be let on bail, unless the magistrate for reasons to be recorded in writing by him, refuse bail. I think that would be a very suitable and, I respectfully suggest, a very proper and appropriate provision. That would act as incentive to the magistrates to finish the case. Otherwise, it will be said: 'If you let him out on bail, he will tamper with the witnesses and so on'. It is not proper that a man should be there for four months or five months or three months. That is one provision which I have made.

Then there are smaller things, namely, the moment judgment is given, then he should not go to jail; he should then and there be given by the magistrate a short note saying 'This man has been punished, has been convicted' so that a bail application may be moved before the sessions judge within a brief period two or three minutes. We have to protect the accused as far as we can within the limits of human ingenuity and to see that he gets every opportunity for defending himself, that he is not allowed to remain as an undertrial for no fault of his own, that his liberty is not disturbed, so that he may file an appeal either to the High Court or to the sessions judge.

May I stop there because that finishes one part of the chapter?

Mr. Deputy-Speaker: The hon. Minister wants to continue tomorrow?

Dr. Katju: Yes.

Mr. Deputy-Speaker: Very well. He may continue tomorrow. The House will now stand adjourned to meet again at 8-15 A.M. tomorrow.

The House then adjourned till a Quarter Past Eight of the Clock on Tuesday, the 4th May, 1954.